



Journal of the Senate

Number 19—Regular Session

Monday, April 26, 2004

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CALL TO ORDER

The Senate was called to order by President King at 10:29 a.m. A quorum present—37:

Mr. President	Fasano	Posey
Alexander	Garcia	Pruitt
Argenziano	Geller	Saunders
Aronberg	Haridopolos	Sebesta
Atwater	Hill	Siplin
Bullard	Jones	Smith
Campbell	Klein	Villalobos
Clary	Lawson	Wasserman Schultz
Constantine	Lee	Webster
Cowin	Lynn	Wilson
Crist	Margolis	Wise
Diaz de la Portilla	Miller	
Dockery	Peaden	

Excused: Senators Bennett and Carlton until 11:30 a.m.; Senator Dawson until 2:00 p.m.

PRAYER

The following prayer was offered by the Rev. Thomas D. Crisp, Heart and Home Ministry, Jacksonville:

Almighty God, Father of all mercies: we, thine unworthy servants, do give thee most humble and hearty thanks for all thy goodness and loving kindness to us and to all men.

We thank thee for the gift of eternal life through Christ Jesus our Lord.

Thank you for our great nation and the many freedoms that we enjoy—a nation having received your blessings as no other nation. Help us to reciprocate your love, by our service to you and to our fellowman.

Thank you for our great State of Florida. I pray that you will bless our Governor and this legislative body today. May each one have an awareness of your divine presence in this session of the legislature. Give them

wisdom in their decisions, and may they be led by thy Holy Spirit that this great state might continue to be abundantly blessed.

I pray for their protection. May thy guiding hand be upon these legislators that we, the citizens, may receive strength and encouragement by their leadership and example.

Help us to realize the highest reward for a man's toil is not what he gets for it, but rather what he becomes by it. Lift the light of thy countenance upon us; calm every troubled thought; and guide our feet into the way of peace. Perfect thy strength in our weakness and help us to worship and serve thee always.

In all these things, make us wise unto all thy benefits, that we may render an acceptable thanksgiving unto thee all the days of our life. Through Jesus Christ our Lord, Amen.

PLEDGE

Senate Pages Michaelia Robinson of Tallahassee; Margaret K. Yates, niece of Senator Peaden, of DeFuniak Springs; Josh Szeliga; and Roy "Ric" Miller of Tallahassee, led the Senate in the pledge of allegiance to the flag of the United States of America.

DOCTOR OF THE DAY

The President recognized Dr. Jack C. Jawitz of Bradenton, sponsored by Senator Bennett, as doctor of the day. Dr. Jawitz specializes in Dermatology.

INTRODUCTION OF FORMER SENATOR

Senator Margolis introduced former Senator and Congresswoman Karen Thurman who was present in the chamber.

ADOPTION OF RESOLUTIONS

On motion by Senator Saunders—

SR 3102—A resolution recognizing the week of June 21-25, 2004, as "Humane Society Appreciation Week" in Florida.

WHEREAS, there are currently 48 humane societies in the State of Florida, serving 40 counties in the struggle with domestic animal overpopulation, and

WHEREAS, humane societies work to promote animal adoption and education, eliminate animal overpopulation, prevent animal cruelty, and relieve animal suffering, and

WHEREAS, humane societies have diligently served many Florida communities for as many as 44 years, and

WHEREAS, the estimated population of more than 800,000 unwanted and stray animals euthanized in Florida each year constitutes a potential health risk for rabies and other contagious diseases in this state, and

WHEREAS, in 2003 humane societies served to locate permanent homes for many thousands of unwanted animals and promoted regional spay/neuter campaigns as a preventive and responsible measure for controlling the animal overpopulation in Florida, and

WHEREAS, humane societies are staffed by an estimated 10,000 Florida residents who unselfishly volunteer their time, energy, and expertise, NOW, THEREFORE,

Be It Resolved by the Senate of the State of Florida:

That the humane societies across this state are commended for protecting the health, safety, and welfare of the people and animals of Florida.

BE IT FURTHER RESOLVED, that the week of June 21-25, 2004, is recognized as "Humane Society Appreciation Week."

—was taken up out of order and read the second time in full. On motion by Senator Saunders, **SR 3102** was adopted.

At the request of Senator Lawson—

By Senator Lawson—

SR 3084—A resolution commending the Chipola College Indians 2003-2004 Men's Basketball Team.

WHEREAS, Chipola Junior College was founded in 1947 and became a public educational institution on September 1, 1948, when it joined the state Junior College System, and

WHEREAS, in 1961, Chipola Junior College and its men's basketball team, "The Indians," hosted the first Florida Junior College Men's Basketball Tournament, and since 1996 has been the exclusive site of the Tournament, and

WHEREAS, on August 18, 2003, Chipola Junior College became Chipola College by virtue of beginning to offer 4-year Bachelor of Science Degrees in Science and Mathematics, and

WHEREAS, from 1961 to 2002-2004, the Indians Men's Basketball Team won sixteen Panhandle Conference Championships, and seven State Basketball Championships, and made ten appearances in the National Junior College Athletics Association Men's National Basketball Championship Tournament, and

WHEREAS, in the course of the 2003-2004 season, the Indians Men's Basketball Team has achieved a win-loss record of 30-3, claimed their seventeenth Panhandle Conference Championship, and on March 6, 2004, won the Florida Community College Activities Association/National Junior College Athletics Association Region VIII Men's Basketball Tournament for their eighth State Basketball Championship, and

WHEREAS, in winning the 2003-2004 Tournament, the Indians have won the State Junior or Community College Basketball Championship more than any other Junior or Community College in the State of Florida, and will represent Region VIII in the 2003-2004 National Junior College Athletics Association Men's National Basketball Tournament in Hutchinson, Kansas, opening on March 17, 2004, against the College of Southern Idaho, and

WHEREAS, the 2003-2004 Indians Men's Basketball Team is led by Head Coach Chris Jans and Assistant Coaches Greg Heiar and Micah Biers, and is made up of players Kendaris Pelton, Mario Joiner, Traion Davis, Leon Woodstock, Deke Thompson, Kyron Monette, Daniel Dieu-donne, Isaiah Jenkins, Shawn Malloy, Je'kel Foster, Brent Crews, Michael Reddick, Vas'shun Newborne, and Chanan Colman, NOW, THEREFORE,

Be It Resolved by the Senate of the State of Florida:

That the coaches and members of the Chipola College Indians 2003-2004 Men's Basketball Team are commended for their outstanding accomplishments in qualifying to represent Region VIII in the National Junior College Men's Basketball Championship Tournament.

—**SR 3084** was introduced, read and adopted by publication.

BILLS ON THIRD READING

Consideration of **CS for CS for SB 3036** and **CS for SB 2342** was deferred.

The Senate resumed consideration of—

CS for CS for CS for SB 1184—A bill to be entitled An act relating to condominium and community associations; amending s. 718.111, F.S.; providing immunity from liability for certain information provided by associations to prospective purchasers or lienholders under certain circumstances; amending s. 720.303, F.S.; requiring specific notice to be given to association members before certain assessments or rule changes may be considered at a meeting; amending s. 768.1325, F.S.; providing immunity from civil liability for community associations that provide automated defibrillator devices under certain circumstances; prohibiting insurers from requiring associations to purchase medical malpractice coverage as a condition of issuing other coverage; prohibiting insurers from excluding from coverage under a general liability policy damages resulting from the use of an automated external defibrillator device; amending ss. 718.112 and 719.1055, F.S.; revising notification and voting procedures with respect to any vote to forego retrofitting of the common areas of condominiums and cooperatives with fire sprinkler systems; amending s. 718.503, F.S.; requiring unit owners who are not developers to provide a specific question and answer disclosure document to certain prospective purchasers; creating s. 720.401, F.S.; providing legislative intent relating to the revival of governance of a community; creating s. 720.402, F.S.; providing eligibility to revive governance documents; specifying prerequisites to reviving governance documents; creating s. 720.403, F.S.; requiring the formation of an organizing committee; providing for membership; providing duties and responsibilities of the organizing committee; directing the organizing committee to prepare certain documents; providing for the contents of the documents; providing for a vote of the eligible parcel owners; creating s. 720.404, F.S.; directing the organizing committee to file certain documents with the Department of Community Affairs; specifies the content of the submission to the department; requiring the department to approve or disapprove the request to revive the governance documents within a specified time period; creating s. 720.405, F.S.; requiring the organizing committee to file and record certain documents within a specified time period; directing the organizing committee to give all affected parcel owners a copy of the documents filed and recorded; providing for judicial determination of the effects of revived covenants on parcels; providing for effects of such a judicial determination; amending ss. 720.301 and 720.302, F.S.; conforming provisions to changes made by the act; providing definitions; prescribing a legislative purpose of providing alternative dispute resolution procedures for disputes involving elections and recalls; amending s. 720.303, F.S.; prescribing the right of an association to enforce deed restrictions; prescribing rights of members and parcel owners to attend and address association board meetings and to have items placed on an agenda; prescribing additional requirements for notice of meetings; providing for additional materials to be maintained as records; providing additional requirements and limitations with respect to inspecting and copying records; providing requirements with respect to financial statements; providing procedures for recall of directors; amending s. 720.304, F.S.; prescribing owners' rights with respect to flag display; prohibiting certain lawsuits against parcel owners; providing penalties; allowing a parcel owner to construct a ramp for a parcel resident who has a medical need for a ramp; providing conditions; allowing the display of a security-services sign; amending s. 720.305, F.S.; providing that a fine by an association cannot become a lien against a parcel; providing for attorney's fees in actions to recover fines; creating s. 720.3055, F.S.; prescribing requirements for contracts for products and services; amending s. 720.306, F.S.; providing for notice of and right to speak at member meetings; requiring election disputes between a member and an association to be submitted to mandatory binding arbitration; amending s. 720.311, F.S.; expanding requirements and guidelines with respect to alternative dispute resolution; providing requirements for mediation and arbitration; providing for training and education programs; amending s. 718.110, F.S.; restricting the application of certain amendments restricting owners' rental rights; transferring, renumbering, and amending s. 689.26, F.S.; modifying the disclosure form that a prospective purchaser must receive before a contract for sale; providing that certain contracts are voidable for a specified period; requiring that a purchaser provide written notice of cancellation; transferring and renumbering s. 689.265, F.S., relating to required financial reports of certain residential subdivision developers; amending s. 498.025, F.S., relating to the disposition of subdivided lands; conforming cross-references; creating s. 720.602, F.S.; providing remedies for publication of false and misleading information; amending s. 34.01, F.S.; providing jurisdiction of disputes involving homeowners' associations; amending ss. 316.00825, 558.002, F.S.; conforming cross-references; providing for internal organization of ch. 720, F.S.; amending s. 190.012,

F.S.; providing for the enforcement of deed restrictions in certain circumstances; amending s. 190.046, F.S.; providing for additional dissolution procedures; amending s. 190.006, F.S.; specifying procedures for selecting a chair at the initial landowners' meeting; specifying requirements for proxy voting; requiring notice of landowners' elections; specifying the terms of certain supervisors; providing for nonpartisan elections; specifying the time that resident supervisors assume office; authorizing the supervisor of elections to designate seat numbers for resident supervisors of the board; providing procedures for filing qualifying papers; allowing candidates the option of paying a filing fee to qualify for the election; specifying payment requirements; specifying the number of petition signatures required to qualify for the election; requiring the county canvassing board to certify the results of resident elections; providing an effective date.

—which was previously considered and amended April 24. Pending **Amendment 10 (045140)** by Senator Posey failed to receive the required two-thirds vote.

Pending **Amendment 13 (820854)** by Senator Geller was withdrawn.

MOTION

On motion by Senator Posey, the rules were waived to allow the following amendment to be considered:

Senator Posey moved the following amendment which failed to receive the required two-thirds vote:

Amendment 14 (364182)(with title amendment)—On page 49, line 28, delete “not”

And the title is amended as follows:

On page 3, line 24, delete “cannot” and insert: shall

The vote was:

Yeas—14

Mr. President	Diaz de la Portilla	Posey
Aronberg	Fasano	Sebesta
Constantine	Haridopolos	Webster
Cowin	Lawson	Wise
Crist	Lee	

Nays—18

Alexander	Geller	Saunders
Argenziano	Hill	Siplin
Atwater	Jones	Smith
Bullard	Klein	Villalobos
Campbell	Lynn	Wasserman Schultz
Garcia	Miller	Wilson

Vote after roll call:

Yea—Carlton, Peaden

MOTION

On motion by Senator Geller, the rules were waived to allow the following amendment to be considered:

Senator Geller moved the following amendment which was adopted by two-thirds vote:

Amendment 15 (472022)(with title amendment)—On page 82, between lines 2 and 3, insert:

Section 32. Subsection (9) is added to section 718.5012, Florida Statutes, as created by this act, to read:

718.5012 Ombudsman; powers and duties.—The ombudsman shall have the powers that are necessary to carry out the duties of his or her office, including the following specific powers:

(9) Fifteen percent of the total voting interests in a condominium association, or six unit owners, whichever is greater, may petition the ombudsman to appoint an election monitor to attend the annual meeting of the unit owners and conduct the election of directors. The ombudsman

shall appoint a division employee, a person or persons specializing in condominium election monitoring, or an attorney licensed to practice in this state as the election monitor. All costs associated with the election monitoring process shall be paid by the association. The division shall adopt a rule establishing procedures for the appointment of election monitors and the scope and extent of the monitor's role in the election process.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 5, line 19, after the semicolon (;) insert: amending s. 718.5012, F.S., as created by this act; providing for establishment of election monitors;

MOTION

On motion by Senator Campbell, the rules were waived to allow the following amendment to be considered:

Senator Campbell moved the following amendment which was adopted by two-thirds vote:

Amendment 16 (413082)—On page 35, delete line 14 and insert: 720.601.

RECONSIDERATION OF AMENDMENT

On motion by Senator Campbell, the Senate reconsidered the vote by which **Amendment 11 (584252)** was adopted on April 24. **Amendment 11** was withdrawn.

On motion by Senator Campbell, **CS for CS for CS for SB 1184** as amended was passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—22

Mr. President	Dockery	Peaden
Alexander	Garcia	Sebesta
Argenziano	Geller	Siplin
Atwater	Hill	Villalobos
Campbell	Jones	Webster
Constantine	Lee	Wise
Cowin	Lynn	
Diaz de la Portilla	Miller	

Nays—10

Aronberg	Haridopolos	Pruitt
Bullard	Klein	Saunders
Crist	Posey	Wasserman Schultz
Fasano		

Vote after roll call:

Nay—Carlton, Clary, Smith

Yea to Nay—Constantine

The Senate resumed consideration of—

HB 349—A bill to be entitled An act relating to the Hillsborough County School Board; providing for the relief of Alana Kelly and Richard F. Taylor, Sr.; providing for an appropriation to compensate them for the death of their son, Richard F. Taylor, Jr., caused by the negligence of a Hillsborough County School Board employee; providing for attorney's fees and costs; providing an effective date.

—which was previously considered April 24.

On motion by Senator Hill, further consideration of **HB 349** was deferred.

SJR 566—A joint resolution proposing an amendment to Section 2 of Article I of the State Constitution, relating to basic rights.

—was read the third time by title.

MOTION

On motion by Senator Cowin, the rules were waived to allow the following amendment to be considered:

Senator Cowin moved the following amendment:

Amendment 1 (610108)—On page 1, line 19 through page 2, line 3, delete those lines and insert: to acquire, possess and protect property; except that the ownership, inheritance, disposition and possession of real property by *terrorists or persons affiliated with terrorism, as defined by general law, aliens ineligible for citizenship* may be regulated or prohibited by law. No person shall be deprived of any right because of race, religion, national origin, or physical disability.

BE IT FURTHER RESOLVED that the following statement be placed on the ballot:

CONSTITUTIONAL AMENDMENT
ARTICLE I, SECTION 2

DECLARATION OF RIGHTS.—Proposing an amendment to the State Constitution which will authorize the Legislature to regulate or prohibit the ownership, inheritance, disposition, and possession of real property by terrorists or persons affiliated with terrorism and to define those terms by general law and will also delete its authority to regulate or prohibit the ownership, inheritance, disposition, and possession of real property by aliens ineligible for citizenship.

On motion by Senator Geller, further consideration of **SJR 566** with pending **Amendment 1 (610108)** was deferred.

Consideration of **SB 2112, SB 534, CS for SB 552, and CS for SB 630** was deferred.

SPECIAL ORDER CALENDAR

On motion by Senator Villalobos—

CS for SB 2284—A bill to be entitled An act relating to probation and community control; amending s. 944.473, F.S.; providing additional criteria for mandated participation in a substance abuse program; requiring that substance abuse treatment be considered a basic support service in the release orientation program for certain offenders; amending s. 944.705, F.S.; requiring that substance abuse treatment be included as part of the release orientation program for certain inmates; amending s. 947.22, F.S.; requiring law enforcement officers to assist probation officers in making warrantless arrests; amending s. 948.03, F.S., relating to terms and conditions of probation or community control; providing additional requirements for offenders who have been incarcerated for controlled substance violations; providing additional requirements for random substance abuse testing; authorizing the Department of Corrections to order electronic monitoring as a reporting requirement; amending s. 948.032, F.S.; clarifying the responsibilities of the defendant to prove his or her ability to pay restitution; amending s. 948.06, F.S.; requiring law enforcement officers to assist probation officers in making warrantless arrests; providing for tolling of a probationary period upon a warrantless arrest; authorizing use of a notification letter of a technical violation of a term of probation or community control; requiring the department to provide the court with recommendations concerning the disposition of an offender who has violated probation or community control; specifying the factors to be considered by the department in making its recommendation; requiring submission of a statement regarding the offender’s ability to pay; creating s. 948.061, F.S.; requiring the Department of Corrections to develop a risk assessment and alert system to monitor certain offenders placed on probation or community control; requiring increased supervision of such offenders under certain circumstances; requiring that information be provided to the court by the correctional probation officer; creating s. 948.062, F.S.; requiring the Department of Corrections to review the circumstances of certain arrests of offenders on probation or community control; requiring the Office of Program Policy Analysis and Government Accountability to analyze the reviews and report to the President of the Senate and the Speaker of the House of Representatives; providing legislative findings with respect to the necessity for increased supervision of high-risk of-

fenders who violate community supervision; requesting that the Supreme Court amend a Rule of Criminal Procedure to require that certain offenders arrested for a violation of probation or community control be detained while awaiting a hearing on the violation; creating s. 903.0473, F.S.; permitting the court to order appearance bonds for probationers; providing effective dates.

—was read the second time by title.

Senator Villalobos moved the following amendment which was adopted:

Amendment 1 (334206)—On page 5, line 11 through page 19, line 20, delete those lines and insert: *orientation program referral to the nearest or most appropriate community substance abuse program.*

(5)(4) The department shall conduct a needs assessment of every inmate to determine which, if any, basic support services the inmate needs after release. *Substance abuse treatment shall be deemed a basic support service for any inmate who has been identified as needing substance abuse treatment pursuant to s. 944.473 and who has not been provided an opportunity to receive such treatment while incarcerated.*

(6)(5) The department may contract with public or private entities, including faith-based service groups, for the provision of all or part of the services pursuant to this section.

(7)(6)(a) The department shall notify every inmate, in no less than 18-point type in the inmate’s release documents, that the inmate may be sentenced pursuant to s. 775.082(9) if the inmate commits any felony offense described in s. 775.082(9) within 3 years after the inmate’s release. This notice must be prefaced by the word “WARNING” in bold-faced type.

(b) Nothing in this section precludes the sentencing of a person pursuant to s. 775.082(9), nor shall evidence that the department failed to provide this notice prohibit a person from being sentenced pursuant to s. 775.082(9). The state shall not be required to demonstrate that a person received any notice from the department in order for the court to impose a sentence pursuant to s. 775.082(9).

Section 1. Subsection (2) of section 947.22, Florida Statutes, is amended to read:

947.22 Authority to arrest parole violators with or without warrant.—

(2) Any parole and probation officer, when she or he has reasonable ground to believe that a parolee, control releasee, or conditional releasee has violated the terms and conditions of her or his parole, control release, or conditional release in a material respect, has the right to arrest or request any law enforcement officer to arrest the releasee or parolee without warrant and bring her or him forthwith before one or more commissioners or a duly authorized representative of the Parole Commission or Control Release Authority; and proceedings shall thereupon be had as provided herein when a warrant has been issued by a member of the commission or authority or a duly authorized representative of the commission or authority. *Local law enforcement officers shall assist the probation officer, upon request, in making warrantless arrests, taking the offender into custody and transporting the offender to the county jail.*

Section 2. Subsections (1) and (3) of section 948.03, Florida Statutes, as amended by section 136 of chapter 2003-402, Laws of Florida, are amended to read:

948.03 Terms and conditions of probation or community control.—

(1) The court shall determine the terms and conditions of probation or community control. Conditions specified in paragraphs (a)-(n) ~~(a)-(m)~~ do not require oral pronouncement at the time of sentencing and may be considered standard conditions of probation. Conditions specified in paragraphs (a)-(n) ~~(a)-(m)~~ and (2)(a) do not require oral pronouncement at sentencing and may be considered standard conditions of community control. These conditions may include among them the following, that the probationer or offender in community control shall:

(a) Report to the probation officers and parole supervisors as directed. *The offender shall provide to the probation officer a full, truthful, and complete written report each month. The report must include, but*

need not be limited to, the offender's employment status, monthly earnings, and financial ability. At the discretion of the department, the reporting requirement may include electronic monitoring.

(b) Permit such ~~officers~~ supervisors to visit him or her at his or her home or elsewhere.

(c) Work faithfully at suitable employment insofar as may be possible.

(d) Remain within a specified place.

(e) Make reparation or restitution to the aggrieved party for the damage or loss caused by his or her offense in an amount to be determined by the court. The court shall make such reparation or restitution a condition of probation, unless it determines that clear and compelling reasons exist to the contrary. If the court does not order restitution, or orders restitution of only a portion of the damages, as provided in s. 775.089, it shall state on the record in detail the reasons therefor.

(f) Effective July 1, 1994, and applicable for offenses committed on or after that date, make payment of the debt due and owing to a county or municipal detention facility under s. 951.032 for medical care, treatment, hospitalization, or transportation received by the felony probationer while in that detention facility. The court, in determining whether to order such repayment and the amount of such repayment, shall consider the amount of the debt, whether there was any fault of the institution for the medical expenses incurred, the financial resources of the felony probationer, the present and potential future financial needs and earning ability of the probationer, and dependents, and other appropriate factors.

(g) Support his or her legal dependents to the best of his or her ability.

(h) Make payment of the debt due and owing to the state under s. 960.17, subject to modification based on change of circumstances.

(i) Pay any application fee assessed under s. 27.52(2)(a) and attorney's fees and costs assessed under s. 938.29, subject to modification based on change of circumstances.

(j) Not associate with persons engaged in criminal activities.

(k)1. Submit to random testing as directed by the correctional probation officer or the professional staff of the treatment center where he or she is receiving treatment to determine the presence or use of alcohol or controlled substances.

2. If the offense was a controlled substance violation and the period of probation immediately follows a period of incarceration in the state correction system or if the offense was a controlled substance violation and the offender had a previous term of imprisonment for a controlled-substance-related offense, the conditions shall include a requirement that the offender submit to substance abuse evaluation and comply with recommendations for treatment, and submit to random substance abuse testing intermittently throughout the term of supervision, upon the direction of the correctional probation officer as defined in s. 943.10(3).

(l) Be prohibited from possessing, carrying, or owning any firearm unless authorized by the court and consented to by the probation officer.

(m) Be prohibited from using intoxicants to excess or using or possessing a controlled substance or drug ~~any drugs or narcotics~~ unless prescribed by a physician. The probationer or community controllee shall not knowingly visit places where intoxicants, drugs, or other dangerous substances are unlawfully sold, dispensed, or used.

(n) Remain at liberty without violating the law.

(o)(~~h~~) Attend an HIV/AIDS awareness program consisting of a class of not less than 2 hours or more than 4 hours in length, the cost for which shall be paid by the offender, if such a program is available in the county of the offender's residence.

(p)(~~e~~) Pay not more than \$1 per month during the term of probation or community control to a nonprofit organization established for the sole purpose of supplementing the rehabilitative efforts of the Department of Corrections.

(3)(a)1. The Department of Corrections may, at its discretion, instruct an offender to submit to electronic monitoring ~~electronically monitor an offender sentenced to community control~~. In such cases, the electronic monitoring shall be considered to be supervisory instructions implementing the standard condition of supervision requiring the offender to report to probation officers as directed. This subparagraph does not limit the judge's discretion to order electronic monitoring in appropriate cases.

2. The Department of Corrections shall electronically monitor an offender sentenced to criminal quarantine community control 24 hours per day.

(b) Any offender placed on community control who violates the terms and conditions of community control and is restored to community control may be supervised by means of an electronic monitoring device or system.

(c) For those offenders being electronically monitored, the Department of Corrections shall develop procedures to determine, investigate, and report the offender's noncompliance with the terms and conditions of sentence 24 hours per day. All reports of noncompliance shall be immediately investigated by a community control officer.

(d) The Department of Corrections may contract with local law enforcement agencies to assist in the location and apprehension of offenders who are in noncompliance as reported by the electronic monitoring system. This contract is intended to provide the department a means for providing immediate investigation of noncompliance reports, especially after normal office hours.

Section 3. Section 948.032, Florida Statutes, is amended to read:

948.032 Condition of probation; restitution.—If a defendant is placed on probation, any restitution ordered under s. 775.089 shall be a condition of the probation. The court may revoke probation if the defendant fails to comply with the order. In determining whether to revoke probation, the court shall consider the defendant's employment status, earning ability, and financial resources; the willfulness of the defendant's failure to pay; and any other special circumstances that may have a bearing on the defendant's ability to pay. As provided in s. 948.06(5), it shall be the responsibility of the defendant to prove his or her inability to pay restitution ordered by the court.

Section 4. Effective July 1, 2004, and applicable to offenses or violations committed on or after that date, section 948.06, Florida Statutes, is amended to read:

948.06 Violation of probation or community control; revocation; modification; continuance; failure to pay restitution or cost of supervision.—

(1)(a) Whenever within the period of probation or community control there are reasonable grounds to believe that a probationer or offender in community control has violated his or her probation or community control in a material respect, any law enforcement officer who is aware of the probationary or community control status of the probationer or offender in community control or any parole or probation supervisor may arrest or request any county or municipal law enforcement officer to arrest such probationer or offender without warrant wherever found and forthwith return him or her to the court granting such probation or community control. Local law enforcement officers shall assist the probation officer, upon request, in making warrantless arrests, taking offenders into custody, and transporting offenders to the county jail.

(b) Any committing magistrate may issue a warrant, upon the facts being made known to him or her by affidavit of one having knowledge of such facts, for the arrest of the probationer or offender, returnable forthwith before the court granting such probation or community control.

(c) Any parole or probation supervisor, any officer authorized to serve criminal process, or any peace officer of this state is authorized to serve and execute such warrant.

(d) Upon the filing of an affidavit alleging a violation of probation or community control and following issuance of a warrant under s. 901.02 or upon a warrantless arrest, the probationary period is tolled until the court enters a ruling on the violation. Notwithstanding the tolling of probation as provided in this subsection, the court shall retain jurisdiction over the offender for any violation of the conditions of probation or

community control that is alleged to have occurred during the tolling period. The probation officer is permitted to continue to supervise any offender who remains available to the officer for supervision until the supervision expires pursuant to the order of probation or community control or until the court revokes or terminates the probation or community control, whichever comes first.

(2)(a) The court, upon the probationer or offender being brought before it, shall advise him or her of such charge of violation and, if such charge is admitted to be true, may forthwith revoke, modify, or continue the probation or community control or place the probationer into a community control program.

(b) If probation or community control is revoked, the court shall adjudge the probationer or offender guilty of the offense charged and proven or admitted, unless he or she has previously been adjudged guilty, and impose any sentence which it might have originally imposed before placing the probationer on probation or the offender into community control.

(c) If such violation of probation or community control is not admitted by the probationer or offender, the court may commit him or her or release him or her with or without bail to await further hearing, or it may dismiss the charge of probation or community control violation.

(d) If such charge is not at that time admitted by the probationer or offender and if it is not dismissed, the court, as soon as may be practicable, shall give the probationer or offender an opportunity to be fully heard on his or her behalf in person or by counsel.

(e) After such hearing, the court may revoke, modify, or continue the probation or community control or place the probationer into community control. If such probation or community control is revoked, the court shall adjudge the probationer or offender guilty of the offense charged and proven or admitted, unless he or she has previously been adjudged guilty, and impose any sentence which it might have originally imposed before placing the probationer or offender on probation or into community control.

(f) Notwithstanding s. 775.082, when a period of probation or community control has been tolled, upon revocation or modification of the probation or community control, the court may impose a sanction with a term that when combined with the amount of supervision served and tolled, exceeds the term permissible pursuant to s. 775.082 for a term up to the amount of the tolled period supervision.

(g) If the court dismisses an affidavit alleging a violation of probation or community control, the offender's probation or community control shall continue as previously imposed, and the offender shall receive credit for all tolled time against his or her term of probation or community control.

(h) *The chief judge of each judicial circuit may direct the department to use a notification letter of a technical violation in lieu of a violation report, affidavit, and warrant when the violation is not a new felony or misdemeanor offense. Such direction must be in writing and specify the types of specific violations which are to be reported by a notification letter of a technical violation, any exceptions, and the required process for submission. At the direction of the chief judge, the department shall send the notification letter of a technical violation to the court.*

(i)1. *For each case in which the offender admits to committing a violation or is found to have committed a violation, the department shall provide the court with a recommendation as to disposition by the court. The department shall make a determination as to the reasons for its recommendation, and shall include an evaluation of the following factors:*

a. *The appropriateness or inappropriateness of community facilities, programs, or services for treatment or supervision of the offender.*

b. *The ability or inability of the department to provide an adequate level of supervision of the offender in the community and a statement of what constitutes an adequate level of supervision.*

c. *The existence of other treatment modalities that the offender could use but that do not currently exist in the community.*

2. *The report must also include a summary of the offender's prior supervision history, including the offender's prior participation in treat-*

ment, educational, and vocational programs, and any other actions or circumstances of the offender which are relevant.

3. *The court may specify whether the recommendation or report must be oral or written and may waive the requirement for a report in an individual case or a class of cases. This paragraph does not prohibit the department from making any other report or recommendation that is provided for by law or requested by the court.*

(3)(2)(a) When any state or local law enforcement agency investigates or arrests a person for committing, or attempting, soliciting, or conspiring to commit, a violation of s. 787.025, chapter 794, s. 796.03, s. 800.04, s. 827.071, s. 847.0133, s. 847.0135, or s. 847.0145, the law enforcement agency shall contact the Department of Corrections to verify whether the person under investigation or under arrest is on probation, community control, parole, conditional release, or control release.

(b) If the law enforcement agency finds that the person under investigation or under arrest is on probation, community control, parole, conditional release, or control release, the law enforcement agency shall immediately notify the person's probation officer or release supervisor of the investigation or the arrest.

(4)(3) When the court imposes a subsequent term of supervision following a revocation of probation or community control, it shall not provide credit for time served while on probation or community control toward any subsequent term of probation or community control. However, the court may not impose a subsequent term of probation or community control which, when combined with any amount of time served on preceding terms of probation or community control for offenses before the court for sentencing, would exceed the maximum penalty allowable as provided by s. 775.082. No part of the time that the defendant is on probation or in community control shall be considered as any part of the time that he or she shall be sentenced to serve.

(5)(4) Notwithstanding any other provision of this section, a probationer or an offender in community control who is arrested for violating his or her probation or community control in a material respect may be taken before the court in the county or circuit in which the probationer or offender was arrested. That court shall advise him or her of such charge of a violation and, if such charge is admitted, shall cause him or her to be brought before the court which granted the probation or community control.

(a) If such violation is not admitted by the probationer or offender, the court may commit him or her or release him or her with or without bail to await further hearing. The court, as soon as is practicable, shall give the probationer or offender an opportunity to be fully heard on his or her behalf in person or by counsel.

(b) After such hearing, the court shall make findings of fact and forward the findings to the court which granted the probation or community control and to the probationer or offender or his or her attorney. The findings of fact by the hearing court are binding on the court which granted the probation or community control. Upon the probationer or offender being brought before it, the court which granted the probation or community control may revoke, modify, or continue the probation or community control or may place the probationer into community control as provided in this section.

(6)(5) *Whenever the department submits a violation report to the court for failure to pay court-ordered obligations, the department shall include a statement by the probationer or offender on community control concerning his or her ability to pay. However, the violation report may be submitted without such statement if it cannot be obtained through department efforts. In any hearing in which the failure of a probationer or offender in community control to pay restitution or the cost of supervision as provided in s. 948.09, as directed, is established by the state, if the probationer or offender asserts his or her inability to pay restitution or the cost of supervision, it is incumbent upon the probationer or offender to prove by clear and convincing evidence that he or she does not have the present resources available to pay restitution or the cost of supervision despite sufficient bona fide efforts legally to acquire the resources to do so. If the probationer or offender cannot pay restitution or the cost of supervision despite sufficient bona fide efforts, the court shall consider alternate measures of punishment other than imprisonment. Only if alternate measures are not adequate to meet the state's interests in punishment and deterrence may the court imprison a proba-*

tioner or offender in community control who has demonstrated sufficient bona fide efforts to pay restitution or the cost of supervision.

(7)(6) Any parolee in a community control program who has allegedly violated the terms and conditions of such placement is subject to the provisions of ss. 947.22 and 947.23.

(8)(7) Any provision of law to the contrary notwithstanding, whenever probation, community control, or control release, including the probationary, community control portion of a split sentence, is violated and the probation or community control is revoked, the offender, by reason of his or her misconduct, shall be deemed to have forfeited all gain-time or commutation of time for good conduct, as provided by law, earned up to the date of his or her release on probation, community control, or control release. This subsection does not deprive the prisoner of his or her right to gain-time or commutation of time for good conduct, as provided by law, from the date on which the prisoner is returned to prison. However, if a prisoner is sentenced to incarceration following termination from a drug punishment program imposed as a condition of probation, the sentence may include incarceration without the possibility of gain-time or early release for the period of time remaining in his or her treatment program placement term.

Section 5. Section 948.061, Florida Statutes, is created to read:

948.061 Identifying, assessing, and monitoring certain high-risk offenders on community supervision; providing cumulative criminal and supervision histories to the court.—

(1) *By December 1, 2004, the department shall develop a graduated risk assessment and alert system that continuously identifies, assesses, and closely monitors the population of offenders placed on probation or community control who have:*

(a) *Previously been placed on probation or community control and who have a history of committing multiple community supervision violations in this state or in other jurisdictions or who have previously been incarcerated in this state or in other jurisdictions; and*

(b) *Have experienced more than one of the following risk factors that could potentially make the offender more likely to pose a danger to others:*

1. *Attempted suicide or severe depression;*
2. *Marital instability or history of domestic violence;*
3. *History of substance abuse;*
4. *Unemployment or substantial financial difficulties;*
5. *History of violence, particularly involving strangers; or*
6. *Any other risk factor identified by the department.*

(2) *Recognizing that there may be a propensity for these offenders with extensive criminal histories and multiple risk factors to pose a serious threat to the community, the department shall consider the cumulative impact of these risk factors and, if necessary, place these offenders on an elevated alert status and provide a high level of supervision for these offenders until the situation*

Senator Haridopolos moved the following amendment which was adopted:

Amendment 2 (480724)(with title amendment)—On page 24, between lines 5 and 6, insert:

Section 11. Subsection (2) of section 948.09, Florida Statutes, is amended to read:

948.09 Payment for cost of supervision and rehabilitation.—

(2) Any person being electronically monitored by the department as a result of placement on community control shall be required to pay as a surcharge an amount that may not exceed the full cost of the monitoring service in addition to the cost of supervision fee as directed by the sentencing court. *The department is authorized to contract with a private entity to provide services necessary to implement or facilitate the collection of this surcharge and to allow for payment of a reasonable fee for costs of collection from the proceeds. The surcharge, less the reasonable*

fee for costs of collection, shall be deposited in the Operating Trust Fund to be used by the department for purchasing and maintaining electronic monitoring devices.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 3, line 5, after the semicolon (;) insert: amending s. 948.09, F.S.; authorizing the department to contract for collection of electronic monitoring fees;

Pursuant to Rule 4.19, **CS for SB 2284** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

Consideration of **CS for SB 2572** was deferred.

On motion by Senator Miller—

CS for CS for SB 1178—A bill to be entitled An act relating to minority health care; creating s. 381.736, F.S.; providing for the Department of Health to monitor and report on Florida's status regarding the Healthy People 2010 goals and objectives currently tracked by the department; requiring an annual report to the Legislature; requiring the department to work with various groups to educate health care professionals on racial and ethnic issues in health, to recruit and train health care professionals from minority backgrounds, and to promote certain research; amending s. 409.901, F.S.; defining the term "minority physician network"; amending s. 409.912, F.S.; requiring the Agency for Health Care Administration to contract for a Medicaid minority physician network; providing guidelines for the operation of the network; defining the term "cost-effective"; requiring the agency to conduct actuarially sound audits; providing an effective date.

—was read the second time by title.

Senator Miller moved the following amendment which was adopted:

Amendment 1 (313138)—On page 1, line 28 through page 5, line 26, delete those lines and insert:

381.736 Florida Healthy People 2010 Program.—

(1) *The Department of Health shall, using existing resources, monitor and report Florida's status on the Healthy People 2010 goals and objectives currently tracked and available to the department. The federal Healthy People 2010 goals and objectives are designed to measure and help to improve the health of all Americans by advancing the following goals:*

(a) *Increase the quality and years of healthy life.*

(b) *Eliminate health disparities among different segments of the population.*

(2) *The department shall report to the Legislature by December 31 of each year on the status of disparities in health among minorities and nonminorities, using health indicators currently available that are consistent with those identified by the federal Healthy People 2010 goals and objectives.*

(3) *To reduce negative health consequences that result from ignoring racial and ethnic cultures, the department shall work with minority physician networks to develop programs to educate health care professionals about the importance of culture in health status. These programs shall include, but need not be limited to:*

(a) *The education of health care providers about the prevalence of specific health conditions among certain minority groups.*

(b) *The training of clinicians to be sensitive to cultural diversity among patients and to recognize that inherent biases can lead to disparate treatments.*

(c) *The creation of initiatives that educate private-sector health care and managed care organizations about the importance of cross-cultural training of health care professionals and the effect of such training on the professional-patient relationship.*

(d) *The fostering of increased use of interpreter services in health care settings.*

(4) *The department shall work with and promote the establishment of public and private partnerships with charitable organizations, hospitals, and minority physician networks to increase the proportion of health care professionals from minority backgrounds.*

(5) *The department shall promote research on methods by which to reduce disparities in health care at colleges and universities that have historically large minority enrollments, including centers of excellence in this state identified by the National Center on Minority Health and Health Disparities, by working with those colleges and universities and with community representatives to encourage local minority students to pursue professions in health care.*

Section 2. Subsections (23), (24), (25), and (26) of section 409.901, Florida Statutes, are renumbered as subsections (24), (25), (26), and (27), respectively, and a new subsection (23) is added to that section, to read:

409.901 Definitions; ss. 409.901-409.920.—As used in ss. 409.901-409.920, except as otherwise specifically provided, the term:

(23) *“Minority physician network” means a network of primary care physicians with experience managing Medicaid or Medicare recipients that is predominantly owned by minorities as defined in s. 288.703, which may have a collaborative partnership with a public college or university and a tax-exempt charitable corporation.*

Section 3. Subsection (45) is added to section 409.912, Florida Statutes, to read:

409.912 Cost-effective purchasing of health care.—The agency shall purchase goods and services for Medicaid recipients in the most cost-effective manner consistent with the delivery of quality medical care. The agency shall maximize the use of prepaid per capita and prepaid aggregate fixed-sum basis services when appropriate and other alternative service delivery and reimbursement methodologies, including competitive bidding pursuant to s. 287.057, designed to facilitate the cost-effective purchase of a case-managed continuum of care. The agency shall also require providers to minimize the exposure of recipients to the need for acute inpatient, custodial, and other institutional care and the inappropriate or unnecessary use of high-cost services. The agency may establish prior authorization requirements for certain populations of Medicaid beneficiaries, certain drug classes, or particular drugs to prevent fraud, abuse, overuse, and possible dangerous drug interactions. The Pharmaceutical and Therapeutics Committee shall make recommendations to the agency on drugs for which prior authorization is required. The agency shall inform the Pharmaceutical and Therapeutics Committee of its decisions regarding drugs subject to prior authorization.

(45) *The agency shall contract with an established minority physician network that provides services to historically underserved minority patients. The network must provide cost-effective Medicaid services, comply with the requirements to be a MediPass provider, and provide its primary care physicians with access to data and other management tools necessary to assist them in ensuring the appropriate use of services, including inpatient hospital services and pharmaceuticals.*

(a) *The agency shall provide for the development and expansion of minority physician networks in each service area to provide services to Medicaid recipients who are eligible to participate under federal law and rules.*

(b) *The agency shall reimburse the minority physician network as a fee-for-service provider, including the case management fee for primary care, or as a capitated rate provider for Medicaid services. Any savings shall be shared with the minority physician network pursuant to the contract.*

(c) *For purposes of this subsection, the term “cost-effective” means that a network’s per-member, per-month costs to the state, including, but not limited to, fee-for-service costs, administrative costs, and case-management fees, must be no greater than the state’s costs associated with contracts for Medicaid services established under subsection (3), which shall be actuarially adjusted for case mix, model, and service area. The agency shall conduct actuarially sound audits adjusted for case mix*

and model in order to ensure such cost-effectiveness and shall publish the audit results on its Internet website and submit the audit results annually to the Governor, the President of the Senate, and the Speaker of the House of Representatives no later than December 31. Contracts established pursuant to this subsection which are not cost-effective may not be renewed.

(d) *The agency may apply for any federal waivers needed to implement this paragraph.*

Pursuant to Rule 4.19, **CS for CS for SB 1178** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Argenziano—

SB 2132—A bill to be entitled An act relating to the Florida Construction Industries Recovery Fund; amending s. 489.140, F.S.; renaming the fund as the Florida Homeowners’ Construction Recovery Fund; creating s. 489.1401, F.S.; declaring legislative intent with respect to use of the fund; creating s. 489.1402, F.S.; defining terms; amending s. 489.141, F.S.; revising conditions for recovery from the fund; amending s. 489.142, F.S.; providing for hearings and for service of notice; amending s. 489.1425, F.S.; conforming to changes in terminology; amending s. 489.143, F.S.; providing a limit on disbursements with respect to a single contract; revising guidelines for making payments from the fund; providing criminal penalties for specified fraudulent acts; amending ss. 489.144, 489.13, 489.131, F.S.; conforming terminology to the changes made by the act; amending s. 468.631, F.S.; requiring certain information relating to building permits to be reported to the Department of Business and Professional Regulation; providing an effective date.

—was read the second time by title.

The Committee on Judiciary recommended the following amendment which was moved by Senator Argenziano and adopted:

Amendment 1 (232854)—On page 14, lines 24-26, delete those lines and insert: *secretary’s designee.*

Pursuant to Rule 4.19, **SB 2132** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Alexander—

CS for CS for CS for SB 2480—A bill to be entitled An act relating to agricultural equipment; amending s. 686.40, F.S.; providing a popular name; amending s. 686.401, F.S.; clarifying intent of the Agricultural Equipment Manufacturers and Dealers Act to provide for regulation of the conduct of manufacturers, distributors, and dealers of equipment primarily designed for or used in agriculture; amending s. 686.402, F.S.; revising and adding definitions; amending s. 686.403, F.S.; clarifying provisions relating to application; amending s. 686.405, F.S.; providing that it is unlawful to deny, delay payment for, or restrict warranty claims under certain circumstances; providing for audit of warranty claims; amending s. 686.406, F.S.; clarifying provisions relating to surplus parts; amending s. 686.407, F.S.; providing requirements for the establishment of a new dealership or relocation of a current dealership within a certain area; providing requirements for the sale or lease of new equipment; amending s. 686.409, F.S.; clarifying provisions relating to compensation for inventory under certain circumstances; amending s. 686.413, F.S.; providing additional unlawful acts and practices in the conduct of the manufacturing, distribution, wholesaling, franchising, sale, and advertising of equipment; providing requirements for termination of a franchise or selling agreement under certain circumstances; amending s. 686.418, F.S.; clarifying provisions relating to the effect of the act on local ordinances; amending s. 316.515, F.S.; revising the criteria for determining whether agricultural equipment qualifies for an exemption from maximum width and length limits; providing an effective date.

—was read the second time by title.

Senator Alexander moved the following amendment which was adopted:

Amendment 1 (535382)—On page 7, line 16, delete “other” and insert: ~~other~~

Pursuant to Rule 4.19, **CS for CS for CS for SB 2480** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Jones—

CS for SB 2654—A bill to be entitled An act relating to the carrying of concealed weapons; amending s. 790.06, F.S.; prohibiting the carrying of a concealed weapon or firearm within district legislative offices; within the Capitol Building and specified surrounding buildings and in certain adjacent areas; providing an exemption for secured weapons or firearms in vehicles parked within a parking garage attached to any of the specified buildings, or in a manner designated by the Capitol Police; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **CS for SB 2654** was placed on the calendar of Bills on Third Reading.

On motion by Senator Dockery—

CS for CS for SB 2804—A bill to be entitled An act relating to greenways and trails; renaming ch. 260, F.S., as “Florida Greenways and Trails”; amending s. 260.011, F.S.; providing a popular name; amending s. 260.012, F.S.; revising legislative intent with respect to the development and completion of the Florida National Scenic Trail; amending s. 260.0125, F.S.; requiring a private landowner’s written authorization to the Department of Environmental Protection for public access to private land that has been designated part of the state’s trail system; amending s. 260.013, F.S.; revising definitions; amending s. 260.0141, F.S.; deleting provisions authorizing certain acquisitions; amending s. 260.0142, F.S.; revising the powers and duties of the Florida Greenways and Trails Council; extending the terms of certain appointees; providing for reappointment of appointees; amending eligibility requirements for appointees of the trail-user community to include users of off-road highway vehicles; amending s. 260.015, F.S.; removing provisions for appraisal of certain property by the department; amending s. 260.016, F.S.; revising the general powers of the Department of Environmental Protection relating to greenways and trails; creating s. 335.067, F.S.; creating the Conserve by Bicycle Program within the Department of Transportation; providing the purposes of the program; requiring the department, in conjunction with specified organizations, to conduct a Conserve by Bicycle study; requiring that the study be submitted to the Governor, the Legislature, and the secretaries of Transportation, Environmental Protection, and Health, under certain circumstances; amending s. 373.199, F.S.; requiring the water management districts to include information about the Florida National Scenic Trail in the 5-year work plans; amending s. 378.036, F.S.; defining the term “lands mined for phosphate” for purposes of land acquisitions financed by the Nonmandatory Land Reclamation Trust Fund; exempting sales or leases to Florida Mining-Recreation, Inc., from the tax on sales, use, and other transactions; specifying how funds appropriated by the Legislature may be spent; exempting the corporation from state competitive bidding requirements for certain services; amending s. 380.507, F.S.; revising provisions relating to the acquisition or disposition of certain property under the Florida Communities Trust Program; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **CS for CS for SB 2804** was placed on the calendar of Bills on Third Reading.

On motion by Senator Smith, by two-thirds vote **HB 1807** was withdrawn from the Committees on Criminal Justice; Judiciary; Appropriations Subcommittee on Criminal Justice; and Appropriations.

On motion by Senator Smith—

HB 1807—A bill to be entitled An act relating to burglary; amending s. 810.015, F.S.; providing legislative findings and intent, providing for

special rules of statutory construction; providing retroactive applicability; providing an effective date.

—a companion measure, was substituted for **CS for SB 2856** and read the second time by title.

Pursuant to Rule 4.19, **HB 1807** was placed on the calendar of Bills on Third Reading.

On motion by Senator Garcia—

SB 2574—A bill to be entitled An act relating to commercial relations; creating part III of ch. 668, F.S., relating to unsolicited commercial electronic mail; providing a short title; providing legislative intent; providing definitions relating to unsolicited commercial electronic mail; prohibiting a person from initiating or assisting in the initiation of unsolicited commercial electronic mail under certain circumstances; authorizing interactive computer service providers to block unsolicited commercial electronic mail; authorizing the Department of Legal Affairs to enforce the act; authorizing the department and persons receiving or retransmitting unsolicited electronic mail to bring an action against persons transmitting that mail; providing for declaratory and injunctive relief, compensatory damages, and attorney’s fees; declaring that persons outside this state are subject to the jurisdiction of this state’s courts under specified circumstances; providing a statute-of-limitations period; providing that a violation of the act is an unfair and deceptive trade practice; providing for severability; providing an effective date.

—was read the second time by title.

The Committee on Judiciary recommended the following amendment which was moved by Senator Garcia and adopted:

Amendment 1 (763466)(with title amendment)—On page 2, line 4 through page 5, line 22, delete those lines and insert:

668.60 Short title; application.—This part may be known by the popular name of the “Electronic Mail Communications Act.” Except as otherwise provided, this part applies to unsolicited commercial electronic mail.

668.601 Legislative intent.—This part is intended to promote the integrity of electronic commerce and shall be construed liberally in order to protect the public and legitimate businesses from deceptive and unsolicited commercial electronic mail.

668.602 Definitions.—As used in this part, the term:

(1) “Affirmative consent” means that the recipient of electronic mail expressly consented to receive the message either in response to a clear and conspicuous request for the recipient’s consent or at the recipient’s own initiative. A recipient is deemed to have given affirmative consent if the electronic mail message is from a person other than the person to whom the recipient directly communicated consent if clear and conspicuous notice was given to the recipient that the recipient’s electronic mail address could be transferred to another person for the purpose of that person initiating the transmission of a commercial electronic mail message to the recipient.

(2) “Assist in the transmission” means to provide substantial assistance or support that enables a person to formulate, compose, send, originate, initiate, or transmit a commercial electronic mail message when the person providing the assistance knows or has reason to know that the initiator of the commercial electronic mail message is engaged in or intends to engage in a practice that violates this chapter. “Assist in the transmission” does not include:

(a) Actions that constitute routine conveyance of such message; or

(b) Activities of any entity related to the design, manufacture, or distribution of any technology, product, or component that has a commercially significant use other than to violate or circumvent this part.

(3) “Commercial electronic mail message” means an electronic mail message sent to promote the sale or lease of, or investment in, property, goods, or services related to any trade or commerce. This includes any electronic mail message that may interfere with any trade or commerce, including messages that contain computer viruses.

(4) “Computer virus” means an unwanted computer program or other set of instructions inserted into a computer’s memory, operating system, or program which is specifically constructed with the ability to replicate itself or to affect the other program or files in the computer by attaching a copy of the unwanted program or other set of instructions to one or more computer programs or files.

(5) “Department” means the Department of Legal Affairs.

(6) “Electronic mail address” means a destination, commonly expressed as a string of characters, to which electronic mail may be sent or delivered.

(7) “Electronic mail message” means an electronic message or computer file that is transmitted between two or more telecommunications devices; computers; computer networks, regardless of whether the network is a local, regional, or global network; or electronic devices capable of receiving electronic messages, regardless of whether the message is converted to hardcopy format after receipt, viewed upon transmission, or stored for later retrieval.

(8) “Initiate the transmission” means the action taken by the original sender with respect to a commercial electronic mail message.

(9) “Interactive computer service” means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically, but not limited to, a service or system that provides access to the Internet and the systems operated or services offered by libraries or educational institutions.

(10) “Internet domain name” means a globally unique, hierarchical reference to an Internet host or service, which is assigned through centralized Internet naming authorities and which is comprised of a series of character strings separated by periods, with the right-most string specifying the top of the hierarchy.

(11) “Person” means any individual, group of individuals, firm, association, corporation, partnership, joint venture, sole proprietorship, or any other business entity.

(12) “Routine conveyance” means the transmission, routing, relaying, handling, or storing, through an automatic technical process, of an electronic mail message for which another person has identified the recipients or provided the recipient addresses. This does not include any routine conveyance which is deliberately intended to assist persons in violating this part.

(13) “Trade or commerce” means the advertising, soliciting, providing, offering, or distributing, whether by sale, rental, or otherwise, of any goods or service, or any property, whether tangible or intangible, or any other article, commodity, or thing of value, wherever situated.

(14) “Unsolicited commercial electronic mail message” means any commercial electronic mail message that is not a transactional or relationship message and is sent to a recipient without the recipient’s affirmative or implied consent.

668.603 Prohibited activity.—A person may not:

(1) Initiate or assist in the transmission of an unsolicited commercial electronic mail message from a computer located in this state or to an electronic mail address that is held by a resident of this state which:

(a) Uses a third party’s Internet domain name without permission of the third party;

(b) Contains falsified or missing routing information or otherwise misrepresents, falsifies, or obscures any information in identifying the point of origin or the transmission path of the unsolicited commercial electronic mail message;

(c) Contains false or misleading information in the subject line; or

(d) Contains false or deceptive information in the body of the message which is designed and intended to cause damage to the receiving device of an addressee or of another recipient of the message. However, this section does not apply to electronic mail messages resulting from or created by a computer virus which are sent or retransmitted from a computer or other electronic device without the sender’s knowledge or consent.

(2) Distribute software or any other system designed to falsify missing routing information identifying the point of origin or the transmission path of the commercial electronic mail message.

668.604 Blocking of commercial electronic mail by interactive computer service.—This part does not:

(1) Require a provider of Internet access service to block, transmit, route, relay, handle, or store certain types of electronic mail messages;

(2) Prevent or limit, in any way, a provider of Internet access service from adopting a policy regarding commercial or other electronic mail, including a policy of declining to transmit certain types of electronic mail messages, or from enforcing such policy through technical means, through contract, or pursuant to any remedy available under any other provision of law; or

(3) Render lawful any policy or action that is unlawful under any other provision of law.

And the title is amended as follows:

On page 1, lines 11-13, delete those lines and insert: circumstances; providing that a provider of Internet access service is not required to undertake certain actions with regard to electronic mail; providing that acts that are otherwise unlawful are not rendered lawful; authorizing the

Senator Garcia moved the following amendments which were adopted:

Amendment 2 (594658)—On page 3, between lines 2 and 3, insert:

(4) “Computer virus” means a computer program that is designed to replicate itself or affect another program or file in the computer by attaching a copy of the program or other set of instructions to one or more computer programs or files without the consent of the owner or lawful user. The term includes, but is not limited to, programs that are designed to contaminate other computer programs; compromise computer security; consumer computer resources; modify, destroy, record, or transmit data; or disrupt the normal operation of the computer, computer system, or computer network. The term also includes, but is not limited to, programs that are designed to use a computer without the knowledge and consent of the owner or authorized user and to send large quantities of data to a targeted computer network without the consent of the network for the purpose of degrading the targeted computer’s or network’s performance or for the purpose of denying access through the network to the targeted computer or network.

(Renumber subsequent subsections.)

Amendment 3 (341650)—On page 6, lines 5-8, delete those lines and insert: 668.603, is available to an interactive computer service, telephone

Pursuant to Rule 4.19, **SB 2574** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

CS for SB 2572—A bill to be entitled An act relating to airport zoning; amending s. 333.03, F.S.; providing exceptions from certain airport zoning prohibitions for the placement of educational facilities in certain counties; amending s. 1013.36, F.S., to conform; providing an effective date.

—was read the second time by title.

Senator Garcia moved the following amendment:

Amendment 1 (250890)—On page 1, line 31 through page 2, line 3, delete those lines and insert: end of each runway centerline. For educational facilities, this provision does not apply to any county as defined in s. 125.011(1). The school board in any such county shall provide a public hearing for any educational facility located within the area delineated in paragraph (c) and this paragraph.

On motion by Senator Garcia, further consideration of **CS for SB 2572** with pending **Amendment 1 (250890)** was deferred.

On motion by Senator Constantine—

SB 3010—A bill to be entitled An act relating to reemployment after retirement; amending s. 238.181, F.S.; authorizing district school boards to reemploy certain retired teachers under certain circumstances; deleting certain reemployment criteria and limitations; providing legislative intent pertaining to funding and implementation; providing for retroactive applicability; providing an effective date.

—was read the second time by title.

The Committee on Governmental Oversight and Productivity recommended the following amendment which was moved by Senator Constantine and failed:

Amendment 1 (350460)(with title amendment)—On page 3, lines 21 and 22, delete those lines and insert:

Section 3. *Notwithstanding any other law, instructional personnel, as defined in section 1012.01(2), Florida Statutes, who are employed by a developmental research school or the Florida School for the Deaf and the Blind are eligible for reemployment after retirement in the same manner as classroom teachers who are employed by the district school boards, as described in sections 121.091(9)(b)3. and 238.181(2)(c), Florida Statutes; and instructional personnel, as defined in section 1012.01(2), Florida Statutes, who are employed by a developmental research school and authorized by the school's director, or if the school has no director, by the school's principal, are eligible for the Deferred Retirement Option Program (DROP) beyond 60 months in the same manner as the instructional personnel who are employed by the district school boards and authorized by the district school superintendent, as described in section 121.091(13), Florida Statutes.*

Section 4. This act shall take effect upon becoming a law and sections 1 and 2 of this act shall apply retroactively to July 1, 2003.

And the title is amended as follows:

On page 1, line 10, after the semicolon (;) insert: providing that certain reemployment and retirement benefits are available to instructional personnel at developmental research schools and at the Florida School for the Deaf and the Blind;

MOTION

On motion by Senator Constantine, the rules were waived to allow the following amendment to be considered:

Senator Constantine moved the following amendment which was adopted:

Amendment 2 (781026)(with title amendment)—On page 3, lines 21 and 22, delete those lines and insert:

Section 3. (1) *Notwithstanding any other law, instructional personnel, as defined in section 1012.01(2), Florida Statutes, employed by a developmental research school or the Florida School for the Deaf and the Blind are eligible for reemployment after retirement in the same manner as classroom teachers who are employed by the district school boards, as described in sections 121.091(9)(b)3. and 238.181(2)(c), Florida Statutes.*

(2) *Instructional personnel, as defined in section 1012.01(2), Florida Statutes, employed by a developmental research school and authorized by the school's director, or if the school has no director, by the school's principal, are eligible for the Deferred Retirement Option Program (DROP) beyond 60 months in the same manner as the instructional personnel who are employed by the district school boards and authorized by the district school superintendent, as described in section 121.091(13), Florida Statutes.*

Section 4. *Effective July 1, 2004, the director or principal of a charter school participating in the Florida Retirement System may reemploy a retired member as a substitute or hourly teacher on a noncontractual basis, or reemploy such retired member as instructional personnel, as defined in section 1012.01(2)(a), Florida Statutes, on an annual contractual basis, after he or she has been retired for 1 calendar month in accordance with section 121.021(39), Florida Statutes.*

Section 5. This act shall take effect upon becoming a law and sections 1 and 2 of this act shall apply retroactively to July 1, 2003.

And the title is amended as follows:

On page 1, line 10, after the semicolon (;) insert: providing that certain reemployment and retirement benefits are available to instructional personnel employed by developmental research schools and the Florida School for the Deaf and the Blind; authorizing the director or principal of certain charter schools to reemploy certain retired teachers under certain circumstances;

Pursuant to Rule 4.19, **SB 3010** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Campbell—

SB 3012—A bill to be entitled An act relating to judgment liens; amending s. 55.141, F.S.; revising provisions relating to satisfaction of judgments and decrees; eliminating authority of judges to act under these provisions when there is no clerk of court; revising requirements of clerk when accepting payment for satisfaction of a judgment and executing and recording a satisfaction of judgment; providing a sample form to be used by a clerk when recording a satisfaction of judgment; revising provisions relating to notification of satisfaction of judgment to a judgment holder; amending s. 55.202, F.S.; revising procedures for acquiring a judgment lien; providing court authorization to file a judgment lien certificate before a judgment becomes final under certain circumstances; providing effect; amending s. 55.204, F.S.; revising provisions relating to continuation of judgment liens; revising provisions requiring the Department of State to maintain certain files and information; amending s. 55.205, F.S.; deleting a provision authorizing certain creditors to bring certain actions against property of a debtor; amending ss. 55.602, 55.603, 55.604, 55.605, and 55.606, F.S.; revising provisions relating to foreign judgments to apply only to out-of-country foreign judgments; amending s. 56.21, F.S.; revising requirements for notices of a levy and execution sale; amending s. 56.27, F.S.; clarifying provisions relating to payment of money received under execution; amending s. 56.29, F.S.; revising requirements regarding supplementary proceedings for unsatisfied judgments; amending s. 222.01, F.S.; revising provisions relating to designation of homestead property by the owner prior to levy to include foreign judgments; amending s. 319.27, F.S.; correcting a cross-reference; amending s. 679.1021, F.S.; revising a definition of "lien creditor"; providing effective dates.

—was read the second time by title.

Pursuant to Rule 4.19, **SB 3012** was placed on the calendar of Bills on Third Reading.

On motion by Senator Atwater—

CS for SB 2918—A bill to be entitled An act relating to the Florida School for the Deaf and the Blind; amending s. 11.45, F.S.; requiring the Auditor General to conduct audits of the accounts and records of the Florida School for the Deaf and the Blind; amending s. 1001.20, F.S.; including the Florida School for the Deaf and Blind in the entities subject to inspection by the Department of Education's Inspector General; amending s. 1002.36, F.S., relating to the Florida School for the Deaf and the Blind; providing that the school is a component of the delivery of public education within Florida's K-20 education system; requiring certain compliance; revising audit requirements; revising provisions specifying authority of the Board of Trustees for the Florida School for the Deaf and the Blind to perform certain actions; revising the power and authority of the board of trustees; revising duties of the board of trustees; amending s. 1011.55, F.S.; revising the procedure for legislative budget requests of the Florida School for the Deaf and the Blind; creating s. 1013.351, F.S.; providing definitions; providing a policy statement concerning the coordination of planning between the board of trustees and local governments on property acquired after a certain date; authorizing the board of trustees to enter into an interlocal agreement with the municipality where the school is located; providing for the make-up of the interlocal agreement; requiring the submission of the interlocal agreement with the Office of Educational Facilities and the state land planning agency; providing for a review of the interlocal agreement by the office and the agency; providing for amendments of the interlocal agreement; authorizing an alternative process to the interlocal agreement concerning expansion of the school's campus; providing for improved coordination between the board of trustees and the affected local

governments concerning future acquisitions of real property; providing for the board of trustees to request a determination of consistency with the local government's comprehensive plan and local development regulations for the proposed use of property acquired after a certain date; providing for a local government that regulates land use to make that determination; requiring that disputes concerning the implementation of an executed interlocal agreement be resolved in accordance with ch. 164, F.S.; creating s. 1002.361, F.S.; authorizing the board of trustees to create a direct-support organization; requiring the organization to operate under a contract with the board of trustees; providing for the elements of the contract; providing for audits of the organization; providing for membership to the board of directors of the organization; requiring the board of trustees to adopt rules; amending s. 413.011, F.S.; providing legislative policy and intent; providing duties of the Division of Blind Services; requiring the division to develop and implement a state plan for vocational rehabilitation services; requiring the division to develop and implement a state plan for independent living services; providing for the division to purchase and distribute specialized equipment without using state centralized purchasing procedures; exempting such equipment from certain record and inventory requirements; creating a children's program; requiring background investigations of division personnel; requiring division personnel and applicants for employment to meet level 2 screening standards as a condition of employment; redesignating the Advisory Council for the Blind as the Rehabilitation Council for the Blind; amending ss. 413.014, 413.041, 413.051, and 413.091, F.S.; modernizing terminology; requiring the division to conduct a periodic survey of state properties; creating s. 413.095, F.S.; providing for the division to retain title to certain real and personal property intended for use by people who have visual impairments and certain personnel; allowing the division to repossess, transfer, and dispose of such property; providing for rulemaking by the division; authorizing the division to create a blind services direct-support organization; providing purposes and objectives; providing for members of the board of the direct-support organization; providing that the organization is subject to s. 24, Art. I of the State Constitution, ch. 119, F.S., and s. 286.011, F.S.; requiring expenses of the organization to be paid by private funds; providing guidelines for the use of the funds; repealing ss. 413.061, 413.062, 413.063, 413.064, 413.065, 413.066, 413.067, 413.068, and 413.069, F.S., relating to permits for soliciting funds to benefit the blind; providing an effective date.

—was read the second time by title.

Senator Atwater moved the following amendments which were adopted:

Amendment 1 (603282)—On page 19, lines 22 and 23, delete those lines and insert:

Section 6. Effective July 1, 2005, section 1002.361, Florida Statutes, is created to read:

Amendment 2 (512622)(with title amendment)—On page 36, line 12 through page 37, line 3, delete those lines.

And the title is amended as follows:

On page 3, line 25 through page 4, line 1, delete those lines and insert: properties; authorizing the division to create a

Amendment 3 (153166)(with title amendment)—On page 39, lines 6 and 7, delete those lines and insert:

Section 15. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

And the title is amended as follows:

On page 4, delete line 14 and insert: benefit the blind; providing effective dates.

Pursuant to Rule 4.19, **CS for SB 2918** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Lynn—

CS for SB 538—A bill to be entitled An act relating to pugilistic contests and exhibitions; providing a short title; amending s. 548.002, F.S.; defining the term "amateur sanctioning organization"; revising

certain definitions to apply them to both amateur and professional participants; amending s. 548.003, F.S.; providing the Florida State Boxing Commission the responsibility for, and the authority to adopt rules relating to, the approval of amateur sanctioning organizations for amateur boxing and kickboxing matches held in the state; authorizing the commission to adopt by rule, or incorporate by reference into rule, the health and safety standards of certain specified boxing and kickboxing organizations; requiring the commission to review its rules at least every 2 years; authorizing the commission to adopt emergency rules; amending s. 548.006, F.S.; limiting required certification of competitiveness of mixed martial arts and kickboxing matches to professional matches; expanding power of the commission to control pugilistic contests and exhibitions to include exclusive jurisdiction over the approval of amateur sanctioning organizations for amateur boxing and kickboxing matches; specifying requirements for the holding of professional and amateur matches; creating s. 548.0065, F.S.; prohibiting certain amateur matches except under certain circumstances; prohibiting approval of amateur sanctioning organizations not meeting and enforcing certain health and safety standards and not meeting certain other background, training, and experience requirements; providing for periodic checks for compliance with enforcement and supervision requirements; providing procedures for suspending the approval of an amateur sanctioning organization that fails to comply with the health and safety standards required by ch. 548, F.S.; providing that a member of the commission or a representative of the commission may immediately suspend a match that appears to violate health and safety standards; authorizing a law enforcement officer to assist in enforcing a suspension order; requiring biennial or sooner, if necessary, sanctioning review; providing for continuation, suspension, or revocation of sanctioning approval pursuant to such review; amending s. 548.008, F.S.; prohibiting the holding of certain amateur matches not sanctioned and supervised by an amateur sanctioning organization approved by the commission; prohibiting the holding of amateur mixed martial arts matches; prohibiting the holding of professional matches not meeting the requirements of ch. 548, F.S., and rules adopted by the commission; providing penalties for participating in or holding, promoting, or sponsoring a prohibited match; deleting provisions relating to professional or amateur toughman or badman competitions; amending s. 548.007, F.S.; providing for the applicability of ch. 548, F.S., to amateur matches and certain other matches or events; amending s. 548.056, F.S.; deleting a promoter from a list of persons who are prohibited from having a financial interest in a participant; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **CS for SB 538** was placed on the calendar of Bills on Third Reading.

SENATOR CARLTON PRESIDING

On motion by Senator Siplin—

SB 2532—A bill to be entitled An act relating to Three Kings Day; creating s. 683.33, F.S.; designating January 5 as "Three Kings Day" and authorizing local governments to issue proclamations commemorating the occasion; providing an effective date.

—was read the second time by title.

The Committee on Comprehensive Planning recommended the following amendment which was moved by Senator Siplin and adopted:

Amendment 1 (830436)(with title amendment)—On page 1, lines 13-18, delete those lines and insert:

- (1) *January 6 of each year is designated as "Three Kings Day."*
- (2) *Local governments may annually issue a proclamation commemorating January 6 as "Three Kings Day."*

And the title is amended as follows:

On page 1, lines 4-6, delete those lines and insert: "Kings Day"; providing and effective date.

Pursuant to Rule 4.19, **SB 2532** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Bennett—

CS for CS for SB 546—A bill to be entitled An act relating to district school taxation; amending s. 1011.71, F.S.; authorizing certain expenditures from district school tax revenues to pay insurance premiums; amending s. 200.065, F.S., relating to the method of fixing millage, to conform; providing an effective date.

—was read the second time by title.

Senator Bennett moved the following amendments which were adopted:

Amendment 1 (872312)—On page 2, line 22; on page 3, line 10; and on page 4, line 24, delete “facilities” and insert: *plants*

Amendment 2 (891416)(with title amendment)—On page 2, line 23 and on page 4, line 25, after the period (.) insert: *The property and casualty insurance provision of this paragraph is repealed on July 1, 2006.*

And the title is amended as follows:

On page 1, lines 5 and 7, after the semicolon (;) insert: *providing for future repeal;*

Pursuant to Rule 4.19, **CS for CS for SB 546** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

Consideration of **CS for CS for CS for CS for SB 700** was deferred.

On motion by Senator Klein—

CS for SB 1900—A bill to be entitled An act relating to public postsecondary education and state universities; amending s. 1004.225, F.S.; deleting obsolete provisions; providing for terms of members appointed to the Emerging Technology Commission; providing for filling any vacancy that occurs during the term of a member of the commission; delaying the expiration of the Florida Technology Development Act; requiring Florida Research Consortium, Inc., to report to the Emerging Technology Commission within a specified timeframe with respect to criteria for reviewing proposals for a center of excellence; requiring the commission to notify state universities and the State Technology Office of approved criteria for submitting a proposal for a center of excellence by a specified date; requiring the Emerging Technology Commission to submit, by a specified date, a recommended plan to the State Board of Education for establishing or expanding one or more centers of excellence; providing a timeframe for the State Board of Education to approve a final plan and report to the Governor and the Legislature; providing an appropriation; amending s. 1004.55, F.S.; relocating regional autism centers for certain counties; providing an effective date.

—was read the second time by title.

Senator Carlton offered the following amendment which was moved by Senator Klein and adopted:

Amendment 1 (313670)(with title amendment)—On page 10, between lines 22 and 23, insert:

Section 3. Section 1004.451, Florida Statutes, is created to read:

1004.451 Center for the Performing Arts direct-support organization.—

(1) Florida State University shall create a direct-support organization for the Florida State University Center for the Performing Arts for the purposes described in this section. The board of directors of the direct-support organization shall consist of eleven members. The core members of the board of directors shall be the President of Florida State University, the Chair of the Board of Trustees for Florida State University, the Dean of Florida State University School of Theater, the Dean of Florida State University School of Visual Arts and Dance, the Director of Florida State University Conservatory for Actor Training in Sarasota, and two members nominated by Asolo Theater, Inc., and approved by the President of Florida State University. The seven core members of the board shall appoint two additional members to serve on the board of directors

with the approval of the President of Florida State University. The President of Florida State University shall appoint two members from the Sarasota community, or, at the President's discretion, may appoint two members nominated by the Sarasota Ballet, Inc. Upon appointment of all members of the board of directors, the direct-support organization shall develop a charter and bylaws to govern its operation, provided that all decisions by its board of directors shall be taken by at least six-vote majorities. The charter, bylaws, and any modifications of such, shall be subject to approval by Florida State University.

(2) The direct-support organization, operating under its charter and bylaws, shall acquire from Florida State University, own and operate the Florida State University Center for the Performing Arts, and shall promote a resident professional repertory program to work in conjunction with, complement and support the Conservatory's graduate educational theater program of Florida State University in Sarasota. It shall engage in fundraising to support its activities and support the independent fundraising efforts of the Asolo and the Conservatory. The direct-support organization shall operate and maintain the building in coordination with the Florida State University Ringling Cultural Center. All agreements between the University and Asolo in force on the effective date of this statute shall remain binding on the parties.

(3) The direct-support organization shall provide for an annual financial audit in accordance with s. 1004.28(5), Florida Statutes. The audit shall be addressed to the direct support organization, Florida State University, the Asolo and, if it has members serving on the Board of Directors, the Ballet, each of whom are authorized to require and receive from the direct-support organization, or from its independent auditor, any detail or supplemental data relative to the operation of such organization.

(4) An employee or member of the direct-support organization may not receive, nor any member of their immediate family receive, a commission, fee, or financial benefit in connection with services or goods associated with the direct-support organization and may not be a business associate of any individual, firm, or organization involved in the sale or exchange of goods or services within the direct-support organization.

(5) In all other respects, the direct-support organization shall act as a direct-support organization authorized and governed by the provisions of s. 1004.28.

(6) Florida State University shall transfer the Center for the Performing Arts to the direct-support organization when Florida State University has approved the charter and bylaws of the direct-support organization.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 26, after the first semicolon (;) insert: *creating s. 1004.451, F.S.; creating the Florida State University Center for the Performing Arts Direct Support Organization;*

Senators Klein and Pruitt offered the following amendment which was moved by Senator Klein and adopted:

Amendment 2 (821828)(with title amendment)—On page 12, between lines 18 and 19, insert:

Section 5. Section 1004.63, Florida Statutes, is created to read:

1004.63 Florida-Scripps Research Compact.—

(1) There is created the Florida-Scripps Research Compact. The purpose of the compact is to explore facilitating and maximizing Florida's postsecondary collaboration with the Scripps Research Institute, including the feasibility and planning of a physical presence constituting a fully operational State of Florida-Scripps Research Campus over a multiyear phase-in. Such plans may include, but need not be limited to, the creation of research and graduate education facilities for faculty, support staff, and students of the state universities, the state's historically black colleges and universities, the University of Miami, and any other accredited medical school in this state to collaborate with the Scripps Research Institute; the acquisition of land, facilities, and equipment; the potential for placement of a research hospital on the campus; the placement of a public-private research incubator on the campus; and any other public-private partnerships and necessary physical resources that would enhance the state's relationship with the Scripps Research Institute. By December 31, 2004, the compact shall submit a report to the Office of the

Governor, the Senate, and the House of Representatives outlining the potential and feasibility of a Florida-Scripps Research Campus, including plans for governance, operation, and phased-in budget.

(2) For purposes of administration and fiscal agency, the compact shall be hosted by Florida Atlantic University and chaired by the President of Florida Atlantic University. Functions of the compact shall be overseen by a board of directors whose composition shall be determined by the Governor, in consultation with the Scripps Research Institute.

(3) A Compact Research Advisory Committee shall serve as a standing committee of the board of directors. The committee shall be comprised of all members of the Florida Research Consortium and other members as determined by the Governor. The purpose of the Compact Research Advisory Committee shall be to facilitate the report as well as the future collaboration and coordination among Florida's postsecondary institutions and the Scripps Research Institute. Such coordination shall be for purposes of communication, efficiency, priority, and nonduplication rather than as a restriction on any Florida postsecondary institution and its relationship with the Scripps Research Institute.

Section 6. There is appropriated from the General Revenue Fund to the State Board of Education the sum of \$250,000 in nonrecurring funds for the 2004-2005 fiscal year. These funds shall be administered by the Board of Governors of the State University System to support the activities of the Florida-Scripps Research Compact and the Compact Research Advisory Committee.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 28, after the semicolon (;) insert: creating s. 1004.63, F.S.; creating the Florida-Scripps Research Compact; providing an appropriation;

Pursuant to Rule 4.19, CS for SB 1900 as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Saunders—

CS for SB 702—A bill to be entitled An act relating to public records and meetings; creating s. 381.0273, F.S.; providing that information contained in patient safety data or other records maintained by the Florida Patient Safety Corporation and its subsidiaries, advisory committees, or contractors which identifies a patient or which identifies the person or entity reporting patient safety data is confidential and exempt from disclosure under public-records requirements; authorizing the release of information under specified circumstances, including release to a health care research entity; specifying circumstances under which the corporation may deny a request for records or data that identifies a patient; providing that portions of meetings held by the corporation and its subsidiaries, advisory committees, or contractors at which such information is discussed are exempt from public-meetings requirements; providing for future legislative review and repeal under the Open Government Sunset Review Act of 1995; providing a statement of public necessity; providing a contingent effective date.

—was read the second time by title.

Senator Saunders moved the following amendments which were adopted:

Amendment 1 (161312)(with title amendment)—On page 4, between lines 3 and 4, insert:

(3) Information that identifies a health care practitioner or health care facility which is held by the Florida Patient Safety Corporation and its subsidiaries, advisory committees, or contractors pursuant to s. 381.0271, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Information that identifies a health care practitioner or health care facility and that is contained in patient safety data made confidential and exempt from disclosure by this subsection may be disclosed only:

(a) With the express written consent of the health care practitioner or health care facility;

(b) By court order upon a showing of good cause; or

(c) To a health research entity if the entity seeks the records or data pursuant to a research protocol approved by the corporation, maintains the records or data in accordance with the approved protocol, and enters into a purchase and data-use agreement with the corporation, the fee provisions of which are consistent with s. 119.07(1)(a). The corporation may deny a request for records or data that identify the person or entity reporting patient safety data if the protocol provides for intrusive follow-back contacts, has not been approved by a human studies institutional review board, does not plan for the destruction of confidential records after the research is concluded, or does not have scientific merit. The agreement must prohibit the release of any information that would permit the identification of persons or entities that report patient safety data, must limit the use of records or data in conformance with the approved research protocol, and must prohibit any other use of the records or data. Copies of records or data issued under this paragraph remain the property of the corporation.

(Renumber subsequent subsection.)

And the title is amended as follows:

On page 1, lines 8 and 9, delete those lines and insert: identifies a patient, which identifies the person or entity reporting patient safety data, or which identifies a health care practitioner or health care facility

Amendment 2 (483906)—On page 5, delete line 5 and insert: reputation of the person or entity. The Legislature finds that it is a public necessity that information that identifies the health care practitioner or health care facility identified in the patient safety data reported to the Florida Patient Safety Corporation and its subsidiaries, advisory committees, or contractors be protected because health care practitioners and health care facilities would be unlikely to voluntarily submit patient safety data if their identity were made public and such information could be defamatory to the person or entity or could cause unwarranted damage to the name or reputation of the person or entity. The Legislature also finds

Pursuant to Rule 4.19, CS for SB 702 as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Sebesta—

CS for SB 2412—A bill to be entitled An act relating to the Florida High-Speed Rail Authority; amending s. 341.8203, F.S.; redefining the terms “authority” and “high-speed rail system”; amending s. 341.840, F.S.; revising the tax exemption of the authority and its agents and contractors; providing for annual redetermination of eligibility for exemption; providing for recapture of taxes when an exemption is used inappropriately; providing for rules; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, CS for SB 2412 was placed on the calendar of Bills on Third Reading.

On motion by Senator Campbell—

SB 2420—A bill to be entitled An act relating to seniors' services; authorizing each county to create an independent special district to provide funding for seniors' services; requiring approval by a majority vote of electors to annually levy ad valorem taxes not to exceed a certain maximum; creating a governing board for the special district; specifying criteria for membership to the governing board; providing terms of office; clarifying that a county may provide seniors' services or create a special district to provide such services by general or special law; specifying the powers and functions of a council on seniors' services; requiring each council to appoint a chair and a vicechair and elect officers, to identify and assess the needs of the seniors in the county served by the council, to provide training and orientation to new members of the council, to make and adopt bylaws and rules for the council's operation and governance, and to provide an annual written report to the governing body of the county; requiring the council to maintain minutes of each meeting and to serve without compensation; requiring the council to prepare a tentative annual written budget and to compute millage rate to fund the tentative budget; requiring that all tax money collected be paid directly

to the council on seniors' services by the tax collector of the county and deposited in qualified public depositories; specifying expenditures of funds; requiring the council to prepare and file a financial report with the governing body of the county; providing that a district may be dissolved by a special act of the Legislature or by ordinance by the governing body of the county; specifying obligations of the county if a district is dissolved; providing that the governing body of a county may fund the budget of the council on seniors' services from its own funds after or during the council's first year of operation; requiring a special district to comply with statutory requirements related to the filing of a financial or compliance report; authorizing a county to create a dependent special district to provide certain services for seniors; authorizing the district to seek grants from several sources and to accept donations from public and private sources; providing legislative intent with respect to the use of funds collected by a council on seniors' services; providing that two or more councils on seniors' services may enter into a cooperative agreement to share administrative costs, staff, and office space and to seek grants, to accept donations, or to jointly fund programs serving multi-county areas; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **SB 2420** was placed on the calendar of Bills on Third Reading.

On motion by Senator Aronberg—

SB 2924—A bill to be entitled An act relating to child support; amending s. 409.2558, F.S.; requiring the Department of Revenue to use reasonable efforts to locate persons to whom collections or refunds are owed, including disclosing information on the Internet; providing an effective date.

—was read the second time by title.

The Committee on Judiciary recommended the following amendment which was moved by Senator Aronberg and adopted:

Amendment 1 (914682)—On page 1, lines 20 and 21, delete those lines and insert: *including the disclosure of the names of obligees, obligors, and account number assigned by the depository as defined in section 61.046(5), Florida Statutes, on the Internet.*

Pursuant to Rule 4.19, **SB 2924** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Geller—

CS for SB 444—A bill to be entitled An act relating to abrogating offensive or derogatory place names; creating s. 267.0625, F.S.; providing legislative findings that certain place names are offensive or derogatory; providing definitions; requiring the Florida Historical Commission and the Division of Historic Resources to aid state agencies and local governments in identifying geographic sites having offensive or derogatory place names; directing state agencies and local governments to identify geographic sites having offensive or derogatory place names by a specified date; directing the commission to recommend to the division replacement names; directing the division to select replacement names by a specified date; requiring state and local governments to update maps and markers with the new place names; directing the division to notify the United States Board of Geographic Names of name changes; providing specified exceptions to the act; providing an effective date.

—was read the second time by title.

Senator Geller moved the following amendment which was adopted:

Amendment 1 (860942)—On page 3, line 14, delete “*war*” and insert: *wear*

Pursuant to Rule 4.19, **CS for SB 444** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

Consideration of **SB 2426** was deferred.

On motion by Senator Sebesta—

SB 1440—A bill to be entitled An act relating to voter education; requiring district school boards and county supervisors of elections jointly to provide a program of voter education for high-school seniors; providing guidelines for the content of the educational program; requiring that the program of voter education be conducted during school hours; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **SB 1440** was placed on the calendar of Bills on Third Reading.

On motion by Senator Crist—

SB 2426—A bill to be entitled An act relating to electronic monitoring services; amending s. 648.387, F.S.; authorizing bail bond agents to provide electronic monitoring of pretrial releasees; authorizing bail bond agents to contract with government entities to provide electronic monitoring services; authorizing such agents to assess and collect a fee for electronic monitoring services; providing that failure to make timely payment of fees constitutes grounds to remand; providing that the assessment and collection of such fee is exempt from regulation by the Department of Financial Services; creating s. 903.0472, F.S.; authorizing pretrial release subject to electronic monitoring; authorizing a fee for such services; providing that failure to make timely payment of electronic monitoring fees constitutes a violation of pretrial release conditions; providing that a violation of pretrial release conditions constitutes grounds to remand; requiring reporting of violations of pretrial release conditions; providing that it is a third-degree felony for certain persons to alter, tamper with, damage, or destroy electronic monitoring equipment; providing criminal penalties; providing applicability; providing an effective date.

—was read the second time by title.

Senator Crist moved the following amendment which was adopted:

Amendment 1 (460360)(with title amendment)—On page 2, lines 4-17, delete those lines and insert:

(6)(a)1. *A bail bond agent may contract with a vendor of the bail bond agent's choice from among those vendors who register with the clerk of the court to provide electronic monitoring of any person who is released by the court in accordance with chapter 903, subject to court-ordered conditions requiring electronic monitoring.*

2. *A vendor who provides electronic monitoring services shall register with the clerk of the court in each judicial circuit in which the vendor intends to provide such services. At a minimum, the vendor shall provide the clerk with the name of the vendor, the name of an individual employed by the vendor who is to serve as a contact person for the vendor, the address of the vendor, and the telephone number of the contact person. Each clerk of the court may establish an appropriate fee for registration, not to exceed \$25.*

(b) *A bail bond agent may contract with government entities to provide electronic monitoring services as a condition of bail or bond, independent of bail or bond, or under conditions ordered by the court.*

(c) *Bail bond agents are authorized to assess and collect a reasonable, nonrefundable fee for electronic monitoring services from the person who is subject to electronic monitoring. Failure to make timely payment of such fees constitutes grounds for the agent to remand such person to the court or sheriff. Fees associated with required electronic monitoring services are not considered part of the premium for bail bond and shall be exempt from the provisions of s. 648.26.*

(d)1. *The contracted vendor providing the electronic monitoring services shall furnish a transmitter that meets certification standards approved by the Federal Communications Commission unless otherwise specified by state law. For purposes of providing electronic monitoring in accordance with this section and s. 903.0472, each transmitter shall perform according to the following specifications:*

a. *Operate within a signal range of no less than 65 feet but no greater than 150 feet under normal household conditions.*

- b. *Emit a signal at least once every 30 seconds.*
- c. *Possess signal content that identifies the offender and the offender's location.*
- d. *Possess an internal power source that provides a minimum of 1 year of normal operation without need for recharging or replacing the power source, as well as signal content that indicates the power status of the transmitter and provides the vendor with notification of whether the power source needs to be recharged or replaced.*
- e. *Possess signal content that indicates whether the transmitter has been subjected to tampering or removal.*
- f. *Possess encrypted signal content or another feature designed to discourage duplication.*
- g. *Be of a design that is shock resistant, water and moisture proof, and capable of reliable function under normal atmospheric and environmental conditions.*
- h. *Be capable of wear and use in a manner that does not pose a safety hazard or unduly restrict the activities of the defendant.*

In addition, the transmitter must be capable of being attached to the defendant in a manner that readily reveals any efforts to tamper with or remove the transmitter upon visual inspection. Straps or other mechanisms for attaching the transmitter to the defendant must be either capable of being adjusted to fit a defendant of any size or made available in a variety of sizes.

2. The contracted vendor providing the electronic monitoring services shall furnish the bail bondsman with a monitoring unit that meets certification standards approved by the Federal Communications Commission unless otherwise specified by state law. The monitoring unit must be capable of receiving radio-frequency signals from the transmitter worn by the defendant and described in subparagraph 1. The monitoring unit must transmit data concerning the defendant's monitoring status to a central monitoring system facility. The monitoring unit must include an internal memory capable of storing data in the event that communication with the central monitoring system facility is disrupted or in the event of a power failure. The monitoring unit must be capable of transmitting data that is stored by the unit in the event that communication with the central monitoring system facility is disrupted as soon as communication is restored. The monitoring unit must not pose any safety hazard to the defendant or others and must be capable of reliable function under normal environmental and atmospheric conditions.

And the title is amended as follows:

On page 1, lines 4-15, delete those lines and insert: requiring vendors that provide electronic monitoring services to register certain information with the clerk of the court; authorizing bail bond agents to contract with registered vendors to provide electronic monitoring of pretrial releasees in certain circumstances; authorizing bail bond agents to contract with government entities to provide electronic monitoring services in certain circumstances; authorizing such agents to assess and collect a fee for electronic monitoring services; providing that failure to make timely payment of fees constitutes grounds to remand; providing that such fees are exempt from regulation by the Department of Financial Services; providing specifications for electronic monitoring equipment; creating s. 903.0472, F.S.;

MOTION

On motion by Senator Haridopolos, the rules were waived to allow the following amendment to be considered:

Senator Haridopolos moved the following amendment which was adopted:

Amendment 2 (335800)(with title amendment)—On page 3, between lines 10 and 11, insert:

Section 3. Subsection (2) of section 948.09, Florida Statutes, is amended to read:

948.09 Payment for cost of supervision and rehabilitation.—

(2) Any person being electronically monitored by the department as a result of placement on community control shall be required to pay as

a surcharge an amount that may not exceed the full cost of the monitoring service in addition to the cost of supervision fee as directed by the sentencing court. *The department is authorized to contract with a private entity to provide services necessary to implement or facilitate the collection of this surcharge and to allow for payment of a reasonable fee for costs of collection from the proceeds.* The surcharge, less the reasonable fee for costs of collection, shall be deposited in the Operating Trust Fund to be used by the department for purchasing and maintaining electronic monitoring devices.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 28, after “applicability;” insert: amending s. 948.09, F.S.; authorizing the department to contract for collection of electronic monitoring fees;

Pursuant to Rule 4.19, **SB 2426** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Fasano—

CS for CS for SB 1604—A bill to be entitled An act relating to military affairs; creating s. 14.2018, F.S.; creating the Office of Military and State Relations; providing for its powers and duties; creating s. 163.3175, F.S.; providing legislative findings on the compatibility of development with military installations; providing for the exchange of information relating to proposed land use decisions between counties and local governments and military installations; providing for responsive comments by the commanding officer or his or her designee; providing for the county or affected local government to take such comments into consideration; providing for a representative of the military installation to be an ex-officio, nonvoting member of the county's or local government's land planning or zoning board; encouraging the commanding officer to provide information on community planning assistance grants; providing definitions; amending s. 163.3177, F.S.; providing for the future land use plan element of comprehensive plans to include compatibility with military installations; requiring the inclusion of criteria; requiring local governments to update or amend their comprehensive plan by a certain date; providing for the coordination by the state land planning agency and the Department of Defense on compatibility issues for military installations; amending s. 163.3187, F.S.; providing that amendments to address compatibility or include criteria do not count toward the limitation on frequency of amending comprehensive plans; amending s. 163.3191, F.S.; providing that evaluations of comprehensive plans include whether such criteria were successful in resolving land use compatibility uses with military installations; amending s. 288.980, F.S.; creating the Defense Infrastructure Grant Program; providing the purpose and for implementation of the program; providing an effective date.

—was read the second time by title.

Senator Fasano moved the following amendments which were adopted:

Amendment 1 (060646)(with title amendment)—On page 2, lines 17-30 and on page 3, lines 1-23, delete those lines and redesignate subsequent sections.

And the title is amended as follows:

On page 1, lines 3-5, delete those lines and insert: s. 163.3175, F.S.;

Amendment 2 (561808)—On page 5, line 18, delete “and the Office of Military and State Relations”

Amendment 3 (362610)—On page 5, lines 20 and 21, delete “the military installation” and insert: *a military installation acting on behalf of all military installations within that jurisdiction*

Amendment 4 (163448)—On page 10, lines 18-21, delete those lines and insert:

(n) *An assessment of whether the criteria adopted pursuant to s. 163.3177(6)(a) was successful in achieving compatibility with military installations.*

Amendment 5 (364198)(with title amendment)—On page 11, between lines 20 and 21, insert:

Section 7. Subsection (1) of section 295.01, Florida Statutes, is amended to read:

295.01 Children of deceased or disabled veterans; education.—

(1) It is hereby declared to be the policy of the state to provide educational opportunity at state expense for dependent children either of whose parents was a resident of the state at the time such parent entered the Armed Forces and:

(a) ~~Died as a result of service-connected injuries, disease, or disability sustained while on active duty; in that service or from injuries sustained or disease contracted during a period of wartime service as defined in s. 1.01(14) or has died since or may hereafter die from diseases or disability resulting from such war service, or~~

(b) Has been:

1. Determined by the United States Department of Veterans Affairs or its predecessor to have a service-connected 100-percent total and permanent disability rating for compensation;

2. Determined to have a service-connected total and permanent disability rating of 100 percent and is in receipt of disability retirement pay from any branch of the United States Armed Services; or

3. Issued a valid identification card by the Department of Veterans' Affairs in accordance with s. 295.17,

when the parents of such children have been bona fide residents of the state for 5 years next preceding their application for the benefits hereof, and subject to the rules, restrictions, and limitations hereof.

Section 8. Paragraph (a) of subsection (1) of section 443.101, Florida Statutes, is amended to read:

443.101 Disqualification for benefits.—An individual shall be disqualified for benefits:

(1)(a) For the week in which he or she has voluntarily left his or her work without good cause attributable to his or her employing unit or in which the individual has been discharged by his or her employing unit for misconduct connected with his or her work, based on a finding by the Agency for Workforce Innovation. As used in this paragraph, the term “work” means any work, whether full-time, part-time, or temporary.

1. Disqualification for voluntarily quitting continues for the full period of unemployment next ensuing after he or she has left his or her full-time, part-time, or temporary work voluntarily without good cause and until the individual has earned income equal to or in excess of 17 times his or her weekly benefit amount. As used in this subsection, the term “good cause” includes only that cause attributable to the employing unit or which consists of illness or disability of the individual requiring separation from his or her work. Any other disqualification may not be imposed. An individual is not disqualified under this subsection for voluntarily leaving temporary work to return immediately when called to work by the permanent employing unit that temporarily terminated his or her work within the previous 6 calendar months. *For benefit years beginning on or after July 1, 2004, an individual is not disqualified under this subsection for voluntarily leaving work to relocate as a result of his or her military-connected spouse's permanent change of station orders, activation orders, or unit deployment orders.*

2. Disqualification for being discharged for misconduct connected with his or her work continues for the full period of unemployment next ensuing after having been discharged and until the individual has become reemployed and has earned income of at least 17 times his or her weekly benefit amount and for not more than 52 weeks that immediately follow that week, as determined by the Agency for Workforce Innovation in each case according to the circumstances in each case or the seriousness of the misconduct, under the agency's rules adopted for determinations of disqualification for benefits for misconduct.

Section 9. Subsection (1) of section 445.007, Florida Statutes, is amended to read:

445.007 Regional workforce boards; exemption from public meetings law.—

(1) One regional workforce board shall be appointed in each designated service delivery area and shall serve as the local workforce investment board pursuant to Pub. L. No. 105-220. The membership of the board shall be consistent with Pub. L. No. 105-220, Title I, s. 117(b), and contain one representative from a nonpublic postsecondary educational institution that is an authorized individual training account provider within the region and confers certificates and diplomas, one representative from a nonpublic postsecondary educational institution that is an authorized individual training account provider within the region and confers degrees, and three representatives of organized labor. *The board shall include one representative from a military installation if a military installation is located within the region.* Individuals serving as members of regional workforce development boards or local WAGES coalitions, as of June 30, 2000, are eligible for appointment to regional workforce boards, pursuant to this section. It is the intent of the Legislature that, whenever possible and to the greatest extent practicable, membership of a regional workforce board include persons who are current or former recipients of welfare transition assistance as defined in s. 445.002(3) or workforce services as provided in s. 445.009(1), or that such persons be included as ex officio members of the board or of committees organized by the board. The importance of minority and gender representation shall be considered when making appointments to the board. If the regional workforce board enters into a contract with an organization or individual represented on the board of directors, the contract must be approved by a two-thirds vote of the entire board, and the board member who could benefit financially from the transaction must abstain from voting on the contract. A board member must disclose any such conflict in a manner that is consistent with the procedures outlined in s. 112.3143.

Section 10. Subsection (1) of section 464.009, Florida Statutes, is amended, present subsections (3), (4), and (5) of that section are redesignated as subsections (4), (5), and (6), respectively, and a new subsection (3) is added to that section, to read:

464.009 Licensure by endorsement.—

(1) The department shall issue the appropriate license by endorsement to practice professional or practical nursing to an applicant who, upon applying to the department and remitting a fee set by the board not to exceed \$100, demonstrates to the board that he or she:

(a) Holds a valid license to practice professional or practical nursing in another state or territory of the United States, provided that, when the applicant secured his or her original license, the requirements for licensure were substantially equivalent to or more stringent than those existing in Florida at that time;

(b) Meets the qualifications for licensure in s. 464.008 and has successfully completed a state, regional, or national examination which is substantially equivalent to or more stringent than the examination given by the department; or

(c) Has actively practiced nursing in another state, jurisdiction, or territory of the United States for 2 of the preceding 3 years without having his or her license acted against by the licensing authority of any jurisdiction. Applicants who become licensed pursuant to this paragraph must complete within 6 months after licensure a Florida laws and rules course that is approved by the board. Once the department has received the results of the national criminal history check and has determined that the applicant has no criminal history, the appropriate license by endorsement shall be issued to the applicant. ~~This paragraph is repealed July 1, 2004, unless reenacted by the Legislature.~~

(3) *An applicant for licensure by endorsement who is relocating to this state pursuant to his or her military-connected spouse's official military orders and who is licensed in another state that is a member of the Nurse Licensure Compact shall be deemed to have satisfied the requirements of subsection (1) and shall be issued a license by endorsement upon submission of the appropriate application and fees and completion of the criminal background check required under subsection (4).*

Section 11. Subsection (8) of section 464.022, Florida Statutes, is amended to read:

464.022 Exceptions.—No provision of this part shall be construed to prohibit:

(8) Any nurse currently licensed in another state or territory of the United States from performing nursing services in this state for a period of 60 days after furnishing to the employer satisfactory evidence of current licensure in another state or territory and having submitted proper application and fees to the board for licensure prior to employment. *If the nurse licensed in another state or territory is relocating to this state pursuant to his or her military-connected spouse's official military orders, this period shall be 120 days after furnishing to the employer satisfactory evidence of current licensure in another state or territory and having submitted proper application and fees to the board for licensure prior to employment.* The board may extend this time for administrative purposes when necessary.

Section 12. Subsections (2) and (8) of section 1002.39, Florida Statutes, are amended to read:

1002.39 The John M. McKay Scholarships for Students with Disabilities Program.—There is established a program that is separate and distinct from the Opportunity Scholarship Program and is named the John M. McKay Scholarships for Students with Disabilities Program, pursuant to this section.

(2) SCHOLARSHIP ELIGIBILITY.—The parent of a public school student with a disability who is dissatisfied with the student's progress may request and receive from the state a John M. McKay Scholarship for the child to enroll in and attend a private school in accordance with this section if:

(a) By assigned school attendance area or by special assignment, the student has spent the prior school year in attendance at a Florida public school. Prior school year in attendance means that the student was enrolled and reported by a school district for funding during the preceding October and February Florida Education Finance Program surveys in kindergarten through grade 12. *However, this paragraph does not apply to a dependent child of a member of the United States Armed Forces who transfers to a school in this state from out of state or from a foreign country pursuant to a parent's permanent change of station orders. A dependent child of a member of the United States Armed Forces who transfers to a school in this state from out of state or from a foreign country pursuant to a parent's permanent change of station orders must meet all other eligibility requirements to participate in the program.*

(b) The parent has obtained acceptance for admission of the student to a private school that is eligible for the program under subsection (4) and has notified the school district of the request for a scholarship at least 60 days prior to the date of the first scholarship payment. The parental notification must be through a communication directly to the district or through the Department of Education to the district in a manner that creates a written or electronic record of the notification and the date of receipt of the notification.

This section does not apply to a student who is enrolled in a school operating for the purpose of providing educational services to youth in Department of Juvenile Justice commitment programs. For purposes of continuity of educational choice, the scholarship shall remain in force until the student returns to a public school or graduates from high school. However, at any time, the student's parent may remove the student from the private school and place the student in another private school that is eligible for the program under subsection (4) or in a public school as provided in subsection (3).

(8) RULES.—The State Board of Education shall ~~may~~ adopt rules pursuant to ss. 120.536(1) and 120.54 to administer this section, *including rules that school districts must use to expedite the development of a matrix of services based on a current individual education plan from another state or a foreign country for a transferring student with a disability who is a dependent child of a member of the United States Armed Forces. The rules must identify the appropriate school district personnel who must complete the matrix of services. For purposes of these rules, a transferring student with a disability is one who was previously enrolled as a student with a disability in an out-of-state or an out-of-country public or private school or agency program and who is transferring from out of state or from a foreign country pursuant to a parent's permanent change of station orders.* However, the inclusion of eligible private schools within options available to Florida public school students does not expand the regulatory authority of the state, its officers, or any

school district to impose any additional regulation of private schools beyond those reasonably necessary to enforce requirements expressly set forth in this section.

Section 13. Subsection (2) of section 1003.05, Florida Statutes, is amended, and subsection (3) is added to that section to read:

1003.05 Assistance to transitioning students from military families.—

(2) The Department of Education shall *facilitate the development and implementation of memoranda of agreement between school districts and military installations which address strategies for assisting students who are the children of active-duty military personnel in the transition to Florida schools. identify its efforts and strategies for assisting military-connected students in transitioning to the Florida school system, including the identification of acceptable equivalence for curriculum and graduation requirements, and report its findings to the Governor, the President of the Senate, and the Speaker of the House of Representatives by October 1, 2003.*

(3) *Dependent children of active-duty military personnel who otherwise meet the eligibility criteria for special academic programs offered through public schools shall be given first preference for admission to such programs even if the program is being offered through a public school other than the school to which the student would generally be assigned and the school at which the program is being offered has reached its maximum enrollment. If such a program is offered through a public school other than the school to which the student would generally be assigned, the parent or guardian of the student must assume responsibility for transporting the student to that school. For purposes of this subsection special academic programs include charter schools, magnet schools, advanced studies programs, advanced placement, dual enrollment, and International Baccalaureate.*

Section 14. Section 1008.221, Florida Statutes, is created to read:

1008.221 *Dependent children of military personnel transferring to Florida schools; equivalencies for standardized tests.—A dependent child of a member of the United States Armed Forces who enters a public school at the 12th grade from out of state or from a foreign country and provides satisfactory proof of attaining a score on an approved alternative assessment that is concordant to a passing score on the grade 10 FCAT shall satisfy the assessment requirement for a standard high school diploma as provided in s. 1003.43(5)(a). For purposes of this section, approved alternative assessments are the SAT and ACT.*

Section 15. Paragraph (b) of subsection (10) of section 1009.21, Florida Statutes, is amended, and paragraph (k) is added to that subsection, to read:

1009.21 Determination of resident status for tuition purposes.—Students shall be classified as residents or nonresidents for the purpose of assessing tuition in community colleges and state universities.

(10) The following persons shall be classified as residents for tuition purposes:

(b) Active duty members of the Armed Services of the United States and their spouses *and dependents* attending a public community college or state university within 50 miles of the military establishment where they are stationed, if such military establishment is within a county contiguous to Florida.

(k) *Active duty members of a foreign nation's military who are serving as liaison officers and are residing or stationed in this state, and their spouses and dependent children, attending a community college or state university within 50 miles of the military establishment where the foreign liaison officer is stationed.*

Section 16. (1) *The Legislature finds that military families are faced with a variety of challenges, including frequent relocations, recurring deployments, lengthy periods of separation, and heightened anxiety and uncertainty during periods of conflict. A military spouse's ability to gain job skills and maintain a career contributes to the financial well-being of the family, spouse satisfaction with military life, and military retention and readiness. Military spouses are often required to terminate their employment in order to support their spouse's highly mobile military commitment. The unemployment rate for military spouses is approximately four times the civilian unemployment rate, and military spouse*

earnings are significantly lower than those of their comparably educated civilian peers. Recognizing the employment challenges faced by military spouses and the importance of military families to our communities and economy, the Legislature declares its intent to establish an employment advocacy and assistance program to serve Florida's military families.

(2) Workforce Florida, Inc., shall establish an employment advocacy and assistance program targeting military spouses and dependents. This program shall deliver employment assistance services through military family employment advocates colocated within selected one-stop career centers. Persons eligible for assistance through this program shall include spouses and dependents of active-duty military personnel, Florida National Guard members, and military reservists.

(3) Military family employment advocates are responsible for providing the following services and activities:

(a) Coordination of employment assistance services through military base family support centers, Florida's one-stop career centers, and veteran-support organizations.

(b) Training to one-stop career center managers and staff on the unique employment needs and skills of military family members.

(c) Promoting and marketing the benefits of employing military family members to prospective employers.

(d) Assisting employment-seeking military family members through job counseling, job search and placement services, the dissemination of information on educational and training programs, and the availability of support services.

(e) Other employment assistance services Workforce Florida, Inc., deems necessary.

(4) Workforce Florida, Inc., may enter into agreements with public and private entities to provide services authorized under this section.

Section 17. *The Florida Housing Finance Corporation shall undertake an assessment of the needs of active duty military personnel and their families living in Florida for affordable housing. The needs assessment shall provide information on the population characteristics of the service personnel and their families having total gross incomes of up to 80 percent of the local area's median income who are living off base, including, but not limited to, the number of households by family size, income, and current tenancy; the condition of existing housing; and the availability of homeowner and rental housing that is affordable to these service personnel and their families. The corporation shall report its findings and recommendations to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Senate Minority Leader, and the House Minority Leader by December 31, 2004.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 2, line 12, after the semicolon (;) insert: amending s. 295.01, F.S.; revising certain requirements relating to scholarships for children of deceased veterans; amending s. 443.101, F.S.; providing eligibility for unemployment compensation benefits for the spouses of a member of the military under certain circumstances beginning on a date certain; amending s. 445.007, F.S.; providing for the appointment of a military representative to certain regional workforce boards; amending s. 464.009, F.S.; removing a scheduled repeal of provisions; providing for licensure by endorsement of certain nurses licensed in another state that is a member of the Nurse Licensure Compact; amending s. 464.022, F.S.; providing that certain nurses relocating to this state may perform nursing services for a period of 120 days after submitting application for licensure; amending s. 1002.39, F.S.; revising eligibility requirements for military dependents applying for a John M. McKay Scholarship; requiring the State Board of Education to adopt rules; amending s. 1003.05, F.S.; directing the Department of Education to assist in the development of memoranda of agreement between school districts and military installations; providing that qualifying military dependents receive priority admission to certain special academic programs; creating s. 1008.221, F.S.; providing for alternate assessments for the grade 10 FCAT for certain military dependents; amending s. 1009.21, F.S.; classifying dependents of active duty members of the armed forces and certain liaison officers and their spouses and dependent children as residents for

tuition purposes; directing Workforce Florida, Inc., to establish an employment advocacy and assistance program targeting military spouses and dependents; directing the Florida Housing Finance Corporation to assess the housing needs of Florida's military families; requiring a report;

Pursuant to Rule 4.19, **CS for CS for SB 1604** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Smith—

CS for CS for SB 2262—A bill to be entitled An act relating to the prescription of psychotropic medications to dependent minors; amending s. 743.0645, F.S.; defining the term "psychotropic medication"; creating the Center for Juvenile Psychotropic Studies within the Department of Psychiatry of the College of Medicine of the University of Florida; providing the purpose of the center; providing for the appointment of a director; creating an advisory board; providing for board membership; requiring the center to work with the Department of Children and Family Services, the Department of Juvenile Justice, the Agency for Health Care Administration, and the Department of Health; requiring certain data relating to dependent minors for whom psychotropic medications have been prescribed to be made available to the center, as legally allowed; requiring the center to report to legislative leaders by a specified date; providing for future repeal; amending s. 39.401, F.S.; providing that the refusal of a parent, legal guardian, or other person responsible for a child's welfare to administer or consent to the administration of a psychotropic medication does not by itself constitute grounds for taking the child into custody; providing an exception; creating s. 402.3127, F.S.; prohibiting the unauthorized administration of medication by personnel associated with child care entities; providing an exception for emergency medical conditions when the child's parent or legal guardian is unavailable; defining the term "emergency medical condition"; providing penalties for violations; amending s. 1006.062, F.S.; requiring district school boards to adopt rules prohibiting district school board personnel from recommending the use of psychotropic medications for any student; allowing such personnel to recommend that a medical practitioner evaluate a student and to consult with such practitioners; providing an effective date.

—was read the second time by title.

MOTION

On motion by Senator Wise, the rules were waived to allow the following amendment to be considered:

Senator Wise moved the following amendment which was adopted:

Amendment 1 (151814)—On page 12, line 6, after "personnel" insert: *except psychiatrists licensed under chapter 458 or chapter 459,*

Pursuant to Rule 4.19, **CS for CS for SB 2262** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Argenziano—

SB 2754—A bill to be entitled An act relating to construction contracting; amending s. 255.05, F.S.; making certain restrictions in bonds issued for public works projects unenforceable; deleting obsolete language; amending ss. 489.129 and 489.533, F.S.; increasing an administrative fine under certain disciplinary proceeding provisions; amending s. 713.015, F.S.; revising a direct contract provision requirement; providing that failure to include such provision in such contracts limits certain lien rights under the contract; providing construction relating to validity and enforceability; preserving lien rights of certain persons; amending s. 713.02, F.S.; protecting the rights of certain persons to enforce certain contract, lien, or bond remedies or contractual obligations under certain circumstances; precluding certain defenses; amending s. 713.04, F.S.; revising certain final payment requirements; amending s. 713.08, F.S.; requiring a claim of lien to be served on an owner; amending s. 713.13, F.S.; clarifying use of a payment bond as a transfer bond; amending s. 713.135, F.S., revising certain notice of commencement and applicability of lien requirements for certain authorities issuing building permits;

amending s. 713.24, F.S.; preserving certain lien rights when filing a transfer bond after commencing certain lien enforcement proceedings; amending s. 713.345, F.S.; increasing certain criminal penalties for misapplication of construction funds; providing an effective date.

—was read the second time by title.

Senator Argenziano moved the following amendments which were adopted:

Amendment 1 (812240)(with title amendment)—On page 4, line 12 through page 8, line 23, delete sections 2 and 3 and redesignate subsequent sections.

And the title is amended as follows:

On page 1, lines 6-8, delete those lines and insert: language;

Amendment 2 (871550)—On page 8, line 27, delete “(1)”

Amendment 3 (180742)(with title amendment)—On page 9, lines 21-25, delete those lines.

And the title is amended as follows:

On page 1, lines 10-15, delete those lines and insert: contract provision requirement; amending s. 713.02,

Amendment 4 (615798)—On page 11, lines 17-20, delete those lines and insert: *and the clerk’s mailing as provided in s. 713.23(2). The notice requirements of s. 713.23 apply to any claim against the bond; however, the time limits for serving the notice shall run from the later of the time specified in s. 713.23 or the date the notice of bond is served on the lienor.*

Amendment 5 (524332)(with title amendment)—On page 14, between lines 19 and 20, insert:

Section 12. Subsection (1) of section 713.3471, Florida Statutes, is amended to read:

713.3471 Lender responsibilities with construction loans.—

(1) Prior to a lender making ~~the first any~~ loan disbursement on any construction loan secured by residential property directly to the owner, which for purposes of this section means an individual owner only, or jointly to the owner and any other party, the lender shall give the following written notice to the ~~owner borrowers~~ in bold type larger than any other type on the page:

WARNING!

YOUR LENDER IS MAKING A LOAN DISBURSEMENT DIRECTLY TO YOU AS THE OWNER BORROWER, OR JOINTLY TO YOU AND ANOTHER PARTY. TO PROTECT YOURSELF FROM HAVING TO PAY TWICE FOR THE SAME LABOR, SERVICES, OR MATERIALS USED IN MAKING THE IMPROVEMENTS TO YOUR PROPERTY, BE SURE THAT YOU REQUIRE YOUR CONTRACTOR TO GIVE YOU LIEN RELEASES FROM EACH LIENOR WHO HAS SENT YOU A NOTICE TO OWNER EACH TIME YOU MAKE A PAYMENT TO YOUR CONTRACTOR.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 2, line 3, after the semicolon (;) insert: amending s. 713.3471, F.S.; revising a notice requirement concerning the disbursement of payments on construction loans; requiring that the notice be provided to the owner;

MOTION

On motion by Senator Bennett, the rules were waived to allow the following amendments to be considered:

Senator Bennett moved the following amendments which were adopted:

Amendment 6 (603536)(with title amendment)—On page 14, between lines 19 and 20, insert:

Section 12. *Neither the amendments to sections 95.11, 218.70, 218.72, 218.735, and 255.071, Florida Statutes, and subsection (2) of section 255.05, Florida Statutes, as provided in this act, nor subsection (9) of section 255.05, Florida Statutes, and section 255.078, Florida Statutes, as created by this act, apply to any existing construction contract pending approval by a local governmental entity or public entity, or to any project advertised for bid by the local government entity or public entity, on or before the effective date of this act. The amendments to subsections (3), (4), and (6) of section 255.05, Florida Statutes, as provided in this act, apply to public construction bonds issued for contracts entered into on or after the effective date of this act.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 2, line 3, after the semicolon (;) insert: providing for application of specified sections of the act to certain contracts and projects;

Amendment 7 (481972)(with title amendment)—On page 2, line 7 through page 4, line 11, delete those lines and insert:

Section 1. Section 218.70, Florida Statutes, is amended to read:

218.70 ~~Popular name Short title.~~—This part may be cited as the “Local Government Florida Prompt Payment Act.”

Section 2. Subsections (2), (6), and (7) of section 218.72, Florida Statutes, are amended, and subsection (10) is added to that section, to read:

218.72 Definitions.—As used in this part:

(2) “Local governmental entity” means a county or municipal government, school board, school district, authority, special taxing district, other political subdivision, or any office, board, bureau, commission, department, branch, division, or institution thereof ~~or any project supported by county or municipal funds.~~

(6) “Vendor” means any person who sells goods or services, sells or leases personal property, or leases real property *directly* to a local governmental entity. *The term includes any person who provides waste-hauling services to residents or businesses located within the boundaries of a local government pursuant to a contract or local ordinance.*

(7) “Construction services” means all labor, services, and materials provided in connection with the construction, alteration, repair, demolition, reconstruction, or any other improvements to real property ~~that require a license under parts I and II of chapter 489.~~

(10) “Contractor” or “provider of construction services” means any person who contracts directly with a local governmental entity to provide construction services.

Section 3. Subsection (6) of section 218.735, Florida Statutes, is amended, present subsection (7) of that section is redesignated as subsection (9), and new subsections (7) and (8) are added to that section, to read:

218.735 Timely payment for purchases of construction services.—

(6) When a contractor receives payment from a local governmental entity for labor, services, or materials furnished by subcontractors and suppliers hired by the contractor, the contractor shall remit payment due to those subcontractors and suppliers within 10 ~~15~~ days after the contractor’s receipt of payment. When a subcontractor receives payment from a contractor for labor, services, or materials furnished by subcontractors and suppliers hired by the subcontractor, the subcontractor shall remit payment due to those subcontractors and suppliers within 7 ~~15~~ days after the subcontractor’s receipt of payment. Nothing herein shall prohibit a contractor or subcontractor from disputing, pursuant to the terms of the relevant contract, all or any portion of a payment alleged to be due to another party. ~~In the event of such a dispute, the contractor or subcontractor may withhold the disputed portion of any such payment if the contractor or subcontractor notifies the party whose payment is disputed, in writing, of the amount in dispute and the actions required to cure the dispute. The contractor or subcontractor must pay all undisputed amounts due within the time limits imposed by this section.~~

(7)(a) *Each contract for construction services between a local governmental entity and a contractor must provide for the development of a list*

of items required to render complete, satisfactory, and acceptable the construction services purchased by the local governmental entity. The contract must specify the process for the development of the list, including responsibilities of the local governmental entity and the contractor in developing and reviewing the list and a reasonable time for developing the list, as follows:

1. For construction projects with an estimated cost of less than \$10 million, within 30 calendar days after reaching substantial completion of the construction services purchased as defined in the contract, or, if not defined in the contract, upon reaching beneficial occupancy or use; or

2. For construction projects with an estimated cost of \$10 million or more, within 30 calendar days, unless otherwise extended by contract not to exceed 60 calendar days, after reaching substantial completion of the construction services purchased as defined in the contract, or, if not defined in the contract, upon reaching beneficial occupancy or use.

(b) If the contract between the local governmental entity and the contractor relates to the purchase of construction services on more than one building or structure, or involves a multiphased project, the contract shall provide for the development of a list of items required to render complete, satisfactory, and acceptable all the construction services purchased pursuant to the contract for each building, structure, or phase of the project within the time limitations provided in paragraph (a).

(c) The failure to include any corrective work or pending items not yet completed on the list developed pursuant to this subsection does not alter the responsibility of the contractor to complete all the construction services purchased pursuant to the contract.

(d) Upon completion of all items on the list, the contractor may submit a payment request for all remaining retainage withheld by the local governmental entity pursuant to this section. If a good-faith dispute exists as to whether one or more items identified on the list have been completed pursuant to the contract, the local governmental entity may continue to withhold an amount not to exceed 150 percent of the total costs to complete such items.

(e) All items that require correction under the contract and that are identified after the preparation and delivery of the list remain the obligation of the contractor as defined by the contract.

(f) Warranty items may not affect the final payment of retainage as provided in this section or as provided in the contract between the contractor and its subcontractors and suppliers.

(g) Retainage may not be held by a local governmental entity or a contractor to secure payment of insurance premiums under a consolidated insurance program or series of insurance policies issued to a local governmental entity or a contractor for a project or group of projects, and the final payment of retainage as provided in this section may not be delayed pending a final audit by the local governmental entity's or contractor's insurance provider.

(h) If a local governmental entity fails to comply with its responsibilities to develop the list required under paragraph (a) or paragraph (b), as defined in the contract, within the time limitations provided in paragraph (a), the contractor may submit a payment request for all remaining retainage withheld by the local governmental entity pursuant to this section. The local governmental entity need not pay or process any payment request for retainage if the contractor has, in whole or in part, failed to cooperate with the local governmental entity in the development of the list or failed to perform its contractual responsibilities, if any, with regard to the development of the list or if paragraph (8)(f) applies.

(8)(a) With regard to any contract for construction services, a local governmental entity may withhold from each progress payment made to the contractor an amount not exceeding 10 percent of the payment as retainage to ensure the satisfactory completion of the construction services purchased pursuant to the contract until 50-percent completion of such services.

(b) After 50-percent completion of the construction services purchased pursuant to the contract, the local governmental entity must reduce to 5 percent the amount of retainage withheld from each subsequent progress payment made to the contractor. For purposes of this subsection, the term "50-percent completion" has the meaning set forth in the contract between the local governmental entity and the contractor, or, if not defined in the

contract, the point at which the local governmental entity has expended 50 percent of the total cost of the construction services purchased as identified in the contract together with all costs associated with existing change orders and other additions or modifications to the construction services provided for in the contract. However, notwithstanding this subsection, a municipality with a population of 25,000 or fewer, or a county with a population of 100,000 or fewer, may withhold retainage in an amount not exceeding 10 percent of each progress payment made to the contractor until final completion and acceptance of the project by the local governmental entity.

(c) After 50-percent completion of the construction services purchased pursuant to the contract, the contractor may elect to withhold retainage from payments to its subcontractors at a rate higher than 5 percent. The specific amount to be withheld must be determined on a case-by-case basis and must be based on the contractor's assessment of the subcontractor's past performance, the likelihood that such performance will continue, and the contractor's ability to rely on other safeguards. The contractor shall notify the subcontractor, in writing, of its determination to withhold more than 5 percent of the progress payment and the reasons for making that determination, and the contractor may not request the release of such retained funds from the local governmental entity.

(d) After 50-percent completion of the construction services purchased pursuant to the contract, the contractor may present to the local governmental entity a payment request for up to one-half of the retainage held by the local governmental entity. The local governmental entity shall promptly make payment to the contractor, unless the local governmental entity has grounds, pursuant to paragraph (f), for withholding the payment of retainage. If the local governmental entity makes payment of retainage to the contractor under this paragraph which is attributable to the labor, services, or materials supplied by one or more subcontractors or suppliers, the contractor shall timely remit payment of such retainage to those subcontractors and suppliers.

(e) This section does not prohibit a local governmental entity from withholding retainage at a rate less than 10 percent of each progress payment, from incrementally reducing the rate of retainage pursuant to a schedule provided for in the contract, or from releasing at any point all or a portion of any retainage withheld by the local governmental entity which is attributable to the labor, services, or materials supplied by the contractor or by one or more subcontractors or suppliers. If a local governmental entity makes any payment of retainage to the contractor which is attributable to the labor, services, or materials supplied by one or more subcontractors or suppliers, the contractor shall timely remit payment of such retainage to those subcontractors and suppliers.

(f) This section does not require the local governmental entity to pay or release any amounts that are the subject of a good-faith dispute, the subject of an action brought pursuant to s. 255.05, or otherwise the subject of a claim or demand by the local governmental entity or contractor.

(g) The time limitations set forth in this section for payment of payment requests apply to any payment request for retainage made pursuant to this section.

(h) Paragraphs (a)-(d) do not apply to construction services purchased by a local governmental entity which are paid for, in whole or in part, with federal funds and are subject to federal grantor laws and regulations or requirements that are contrary to any provision of the Local Government Prompt Payment Act.

(i) This subsection does not apply to any construction services purchased by a local governmental entity if the total cost of the construction services purchased as identified in the contract is \$200,000 or less.

Section 4. Section 255.0705, Florida Statutes, is created to read:

255.0705 Popular name.—Sections 255.0705-255.078 may be cited as the "Florida Prompt Payment Act."

Section 5. Subsections (2) and (3) of section 255.071, Florida Statutes, are amended to read:

255.071 Payment of subcontractors, sub-subcontractors, materialmen, and suppliers on construction contracts for public projects.—

(2) The failure to pay any undisputed obligations for such labor, services, or materials within 30 days after the date the labor, services,

or materials were furnished and payment for such labor, services, or materials became due, or within the time limitations set forth in s. 255.073(3) 30 days after the date payment for such labor, services, or materials is received, whichever last occurs, shall entitle any person providing such labor, services, or materials to the procedures specified in subsection (3) and the remedies provided in subsection (4).

(3) Any person providing labor, services, or materials for the construction of a public building, for the prosecution and completion of a public work, or for repairs upon a public building or public work improvements to real property may file a verified complaint alleging:

(a) The existence of a contract for providing such labor, services, or materials to improve real property.

(b) A description of the labor, services, or materials provided and alleging that the labor, services, or materials were provided in accordance with the contract.

(c) The amount of the contract price.

(d) The amount, if any, paid pursuant to the contract.

(e) The amount that remains unpaid pursuant to the contract and the amount thereof that is undisputed.

(f) That the undisputed amount has remained due and payable pursuant to the contract for more than 30 days after the date the labor or services were accepted or the materials were received.

(g) That the person against whom the complaint was filed has received payment on account of the labor, services, or materials described in the complaint and, as of the date the complaint was filed, has failed to make payment within the time limitations set forth in s. 255.073(3) more than 30 days prior to the date the complaint was filed.

Section 6. Section 255.072, Florida Statutes, is created to read:

255.072 *Definitions.*—As used in ss. 255.073-255.078, the term:

(1) “Agent” means project architect, project engineer, or any other agency or person acting on behalf of a public entity.

(2) “Construction services” means all labor, services, and materials provided in connection with the construction, alteration, repair, demolition, reconstruction, or any other improvements to real property. The term “construction services” does not include contracts or work performed for the Department of Transportation.

(3) “Contractor” means any person who contracts directly with a public entity to provide construction services.

(4) “Payment request” means a request for payment for construction services which conforms with all statutory requirements and with all requirements specified by the public entity to which the payment request is submitted.

(5) “Public entity” means the state, or any office, board, bureau, commission, department, branch, division, or institution thereof, but does not include a local governmental entity as defined in s. 218.72.

(6) “Purchase” means the purchase of construction services.

Section 7. Section 255.073, Florida Statutes, is created to read:

255.073 *Timely payment for purchases of construction services.*—

(1) Except as otherwise provided in ss. 255.072-255.078, s. 215.422 governs the timely payment for construction services by a public entity.

(2) If a public entity disputes a portion of a payment request, the undisputed portion must be timely paid.

(3) When a contractor receives payment from a public entity for labor, services, or materials furnished by subcontractors and suppliers hired by the contractor, the contractor shall remit payment due to those subcontractors and suppliers within 10 days after the contractor’s receipt of payment. When a subcontractor receives payment from a contractor for labor, services, or materials furnished by subcontractors and suppliers hired by the subcontractor, the subcontractor shall remit payment due to

those subcontractors and suppliers within 7 days after the subcontractor’s receipt of payment. This subsection does not prohibit a contractor or subcontractor from disputing, pursuant to the terms of the relevant contract, all or any portion of a payment alleged to be due to another party if the contractor or subcontractor notifies the party whose payment is disputed, in writing, of the amount in dispute and the actions required to cure the dispute. The contractor or subcontractor must pay all undisputed amounts due within the time limits imposed by this subsection.

(4) All payments due for the purchase of construction services and not made within the applicable time limits shall bear interest at the rate specified in s. 215.422. After July 1, 2005, such payments shall bear interest at the rate of 1 percent per month, to the extent that the Chief Financial Officer’s replacement project for the state’s accounting and cash management systems (Project ASPIRE) is operational for the particular affected public entities. After January 1, 2006, all such payments due from public entities shall bear interest at the rate of 1 percent per month.

Section 8. Section 255.074, Florida Statutes, is created to read:

255.074 *Procedures for calculation of payment due dates.*—

(1) Each public entity shall establish procedures whereby each payment request received by the public entity is marked as received on the date on which it is delivered to an agent or employee of the public entity or of a facility or office of the public entity.

(2) If the terms under which a purchase is made allow for partial deliveries and a payment request is submitted for a partial delivery, the time for payment for the partial delivery must be calculated from the time of the partial delivery and the submission of the payment request.

(3) A public entity must submit a payment request to the Chief Financial Officer for payment no more than 20 days after receipt of the payment request.

Section 9. Section 255.075, Florida Statutes, is created to read:

255.075 *Mandatory interest.*—A contract between a public entity and a contractor may not prohibit the collection of late payment interest charges authorized under s. 255.073(4).

Section 10. Section 255.076, Florida Statutes, is created to read:

255.076 *Improper payment request; resolution of disputes.*— In an action to recover amounts due for construction services purchased by a public entity, the court shall award court costs and reasonable attorney’s fees, including fees incurred through any appeal, to the prevailing party, if the court finds that the nonprevailing party withheld any portion of the payment that is the subject of the action without any reasonable basis in law or fact to dispute the prevailing party’s claim to those amounts.

Section 11. Section 255.077, Florida Statutes, is created to read:

255.077 *Project closeout and payment of retainage.*—

(1) Each contract for construction services between a public entity and a contractor must provide for the development of a list of items required to render complete, satisfactory, and acceptable the construction services purchased by the public entity. The contract must specify the process for the development of the list, including responsibilities of the public entity and the contractor in developing and reviewing the list and a reasonable time for developing the list, as follows:

1. For construction projects with an estimated cost of less than \$10 million, within 30 calendar days after reaching substantial completion of the construction services purchased as defined in the contract, or, if not defined in the contract, upon reaching beneficial occupancy or use; or

2. For construction projects with an estimated cost of \$10 million or more, within 30 calendar days, unless otherwise extended by contract not to exceed 60 calendar days, after reaching substantial completion of the construction services purchased as defined in the contract, or, if not defined in the contract, upon reaching beneficial occupancy or use.

(2) If the contract between the public entity and the contractor relates to the purchase of construction services on more than one building or structure, or involves a multiphased project, the contract shall provide for

the development of a list of items required to render complete, satisfactory, and acceptable all the construction services purchased pursuant to the contract for each building, structure, or phase of the project within the time limitations provided in subsection (1).

(3) The failure to include any corrective work or pending items not yet completed on the list developed pursuant to subsection (1) or subsection (2) does not alter the responsibility of the contractor to complete all the construction services purchased pursuant to the contract.

(4) Upon completion of all items on the list, the contractor may submit a payment request for all remaining retainage withheld by the public entity pursuant to s. 255.078. If a good-faith dispute exists as to whether one or more items identified on the list have been completed pursuant to the contract, the public entity may continue to withhold an amount not to exceed 150 percent of the total costs to complete such items.

(5) All items that require correction under the contract and that are identified after the preparation and delivery of the list remain the obligation of the contractor as defined by the contract.

(6) Warranty items may not affect the final payment of retainage as provided in this section or as provided in the contract between the contractor and its subcontractors and suppliers.

(7) Retainage may not be held by a public entity or a contractor to secure payment of insurance premiums under a consolidated insurance program or series of insurance policies issued to a public entity or a contractor for a project or group of projects, and the final payment of retainage as provided in this section may not be delayed pending a final audit by the public entity's or contractor's insurance provider.

(8) If a public entity fails to comply with its responsibilities to develop the list required under subsection (1) or subsection (2), as defined in the contract, within the time limitations provided in subsection (1), the contractor may submit a payment request for all remaining retainage withheld by the public entity pursuant to s. 255.078. The public entity need not pay or process any payment request for retainage if the contractor has, in whole or in part, failed to cooperate with the public entity in the development of the list or failed to perform its contractual responsibilities, if any, with regard to the development of the list or if s. 255.078(6) applies.

Section 12. Section 255.078, Florida Statutes, is created to read:

255.078 *Public construction retainage.*—

(1) With regard to any contract for construction services, a public entity may withhold from each progress payment made to the contractor an amount not exceeding 10 percent of the payment as retainage to ensure the satisfactory completion of the construction services purchased pursuant to the contract until 50-percent completion of such services.

(2) After 50-percent completion of the construction services purchased pursuant to the contract, the public entity must reduce to 5 percent the amount of retainage withheld from each subsequent progress payment made to the contractor. For purposes of this section, the term "50-percent completion" has the meaning set forth in the contract between the public entity and the contractor, or, if not defined in the contract, the point at which the public entity has expended 50 percent of its total cost of the construction services purchased as identified in the contract together with all costs associated with existing change orders and other additions or modifications to the construction services provided for in the contract.

(3) After 50-percent completion of the construction services purchased pursuant to the contract, the contractor may elect to withhold retainage from payments to its subcontractors at a rate higher than 5 percent. The specific amount to be withheld must be determined on a case-by-case basis and must be based on the contractor's assessment of the subcontractor's past performance, the likelihood that such performance will continue, and the contractor's ability to rely on other safeguards. The contractor shall notify the subcontractor, in writing, of its determination to withhold more than 5 percent of the progress payment and the reasons for making that determination, and the contractor may not request the release of such retained funds from the public entity.

(4) After 50-percent completion of the construction services purchased pursuant to the contract, the contractor may present to the public entity a payment request for up to one-half of the retainage held by the public

entity. The public entity shall promptly make payment to the contractor, unless the public entity has grounds, pursuant to subsection (6), for withholding the payment of retainage. If the public entity makes payment of retainage to the contractor under this subsection which is attributable to the labor, services, or materials supplied by one or more subcontractors or suppliers, the contractor shall timely remit payment of such retainage to those subcontractors and suppliers.

(5) Neither this section nor s. 255.077 prohibits a public entity from withholding retainage at a rate less than 10 percent of each progress payment, from incrementally reducing the rate of retainage pursuant to a schedule provided for in the contract, or from releasing at any point all or a portion of any retainage withheld by the public entity which is attributable to the labor, services, or materials supplied by the contractor or by one or more subcontractors or suppliers. If a public entity makes any payment of retainage to the contractor which is attributable to the labor, services, or materials supplied by one or more subcontractors or suppliers, the contractor shall timely remit payment of such retainage to those subcontractors and suppliers.

(6) Neither this section nor s. 255.077 requires the public entity to pay or release any amounts that are the subject of a good-faith dispute, the subject of an action brought pursuant to s. 255.05, or otherwise the subject of a claim or demand by the public entity or contractor.

(7) The same time limits for payment of a payment request apply regardless of whether the payment request is for, or includes, retainage.

(8) Subsections (1)-(4) do not apply to construction services purchased by a public entity which are paid for, in whole or in part, with federal funds and are subject to federal grantor laws and regulations or requirements that are contrary to any provision of the Florida Prompt Payment Act.

(9) This section does not apply to any construction services purchased by a public entity if the total cost of the construction services purchased as identified in the contract is \$200,000 or less.

Section 13. Section 255.05, Florida Statutes, is amended to read:

255.05 Bond of contractor constructing public buildings; form; action by materialmen.—

(1)(a) Any person entering into a formal contract with the state or any county, city, or political subdivision thereof, or other public authority, for the construction of a public building, for the prosecution and completion of a public work, or for repairs upon a public building or public work shall be required, before commencing the work or before recommencing the work after a default or abandonment, to execute, deliver to the public owner, and record in the public records of the county where the improvement is located, a payment and performance bond with a surety insurer authorized to do business in this state as surety. A public entity may not require a contractor to secure a surety bond under this section from a specific agent or bonding company. The bond must state on its front page: the name, principal business address, and phone number of the contractor, the surety, the owner of the property being improved, and, if different from the owner, the contracting public entity; the contract number assigned by the contracting public entity; and a description of the project sufficient to identify it, such as a legal description or the street address of the property being improved, and a general description of the improvement. Such bond shall be conditioned upon the contractor's performance of the construction work in the time and manner prescribed in the contract and promptly making payments to all persons defined in s. 713.01 who furnish labor, services, or materials for the prosecution of the work provided for in the contract. Any claimant may apply to the governmental entity having charge of the work for copies of the contract and bond and shall thereupon be furnished with a certified copy of the contract and bond. The claimant shall have a right of action against the contractor and surety for the amount due him or her, including unpaid finance charges due under the claimant's contract. Such action shall not involve the public authority in any expense. When such work is done for the state and the contract is for \$100,000 or less, no payment and performance bond shall be required. At the discretion of the official or board awarding such contract when such work is done for any county, city, political subdivision, or public authority, any person entering into such a contract which is for \$200,000 or less may be exempted from executing the payment and performance bond. When such work is done for the state, the Secretary of the Department of Management Services may delegate to state agencies the au-

thority to exempt any person entering into such a contract amounting to more than \$100,000 but less than \$200,000 from executing the payment and performance bond. In the event such exemption is granted, the officer or officials shall not be personally liable to persons suffering loss because of granting such exemption. The Department of Management Services shall maintain information on the number of requests by state agencies for delegation of authority to waive the bond requirements by agency and project number and whether any request for delegation was denied and the justification for the denial. Any provision in a bond furnished for public work contracts as provided by this subsection restricting the classes or persons protected by the bond or the venue of any proceeding relating to the bond is unenforceable.

(b) The Department of Management Services shall adopt rules with respect to all contracts for \$200,000 or less, to provide:

- 1. Procedures for retaining up to 10 percent of each request for payment submitted by a contractor and procedures for determining disbursements from the amount retained on a pro rata basis to laborers, materialmen, and subcontractors, as defined in s. 713.01.
2. Procedures for requiring certification from laborers, materialmen, and subcontractors, as defined in s. 713.01, prior to final payment to the contractor that such laborers, materialmen, and subcontractors have no claims against the contractor resulting from the completion of the work provided for in the contract.

The state shall not be held liable to any laborer, materialman, or subcontractor for any amounts greater than the pro rata share as determined under this section.

(2)(a)1. If a claimant is no longer furnishing labor, services, or materials on a project, a contractor or the contractor's agent or attorney may elect to shorten the prescribed time in this paragraph within which an action to enforce any claim against a payment bond provided pursuant to this section may be commenced by recording in the clerk's office a notice in substantially the following form:

NOTICE OF CONTEST OF CLAIM AGAINST PAYMENT BOND

To: (Name and address of claimant)

You are notified that the undersigned contests your notice of nonpayment, dated, and served on the undersigned on, and that the time within which you may file suit to enforce your claim is limited to 60 days after the date of service of this notice.

DATED on

Signed: (Contractor or Attorney)

The claim of any claimant upon whom such notice is served and who fails to institute a suit to enforce his or her claim against the payment bond within 60 days after service of such notice shall be extinguished automatically. The clerk shall mail a copy of the notice of contest to the claimant at the address shown in the notice of nonpayment or most recent amendment thereto and shall certify to such service on the face of such notice and record the notice. Service is complete upon mailing.

2. A claimant, except a laborer, who is not in privity with the contractor shall, before commencing or not later than 45 days after commencing to furnish labor, materials, or supplies for the prosecution of the work, furnish the contractor with a notice that he or she intends to look to the bond for protection. A claimant who is not in privity with the contractor and who has not received payment for his or her labor, materials, or supplies shall deliver to the contractor and to the surety written notice of the performance of the labor or delivery of the materials or supplies and of the nonpayment. The notice of nonpayment may be served at any time during the progress of the work or thereafter but not before 45 days after the first furnishing of labor, services, or materials, and not later than 90 days after the final furnishing of the labor, services, or materials by the claimant or, with respect to rental equipment, not later than 90 days after the date that the rental equipment was last on the job site available for use. Any notice of nonpayment served by a claimant who is not in privity with the contractor which includes sums for retainage must specify the portion of the amount claimed for retainage. No action for the labor, materials, or supplies may be instituted against the contractor or the surety unless both notices have been given. Notices required or

permitted under this section may be served in accordance with s. 713.18. An action, except for an action exclusively for recovery of retainage, must be instituted against the contractor or the surety on the payment bond or the payment provisions of a combined payment and performance bond within 1 year after the performance of the labor or completion of delivery of the materials or supplies. An action exclusively for recovery of retainage must be instituted against the contractor or the surety within 1 year after the performance of the labor or completion of delivery of the materials or supplies, or within 90 days after receipt of final payment (or the payment estimate containing the owner's final reconciliation of quantities if no further payment is earned and due as a result of deductive adjustments) by the contractor or surety, whichever comes last. A claimant may not waive in advance his or her right to bring an action under the bond against the surety. In any action brought to enforce a claim against a payment bond under this section, the prevailing party is entitled to recover a reasonable fee for the services of his or her attorney for trial and appeal or for arbitration, in an amount to be determined by the court, which fee must be taxed as part of the prevailing party's costs, as allowed in equitable actions. The time periods for service of a notice of nonpayment or for bringing an action against a contractor or a surety shall be measured from the last day of furnishing labor, services, or materials by the claimant and shall not be measured by other standards, such as the issuance of a certificate of occupancy or the issuance of a certificate of substantial completion.

(b) When a person is required to execute a waiver of his or her right to make a claim against the payment bond in exchange for, or to induce payment of, a progress payment, the waiver may be in substantially the following form:

WAIVER OF RIGHT TO CLAIM AGAINST THE PAYMENT BOND (PROGRESS PAYMENT)

The undersigned, in consideration of the sum of \$., hereby waives its right to claim against the payment bond for labor, services, or materials furnished through (insert date) to (insert the name of your customer) on the job of (insert the name of the owner), for improvements to the following described project:

(description of project)

This waiver does not cover any retention or any labor, services, or materials furnished after the date specified.

DATED ON

(Claimant) By:

(c) When a person is required to execute a waiver of his or her right to make a claim against the payment bond, in exchange for, or to induce payment of, the final payment, the waiver may be in substantially the following form:

WAIVER OF RIGHT TO CLAIM AGAINST THE PAYMENT BOND (FINAL PAYMENT)

The undersigned, in consideration of the final payment in the amount of \$., hereby waives its right to claim against the payment bond for labor, services, or materials furnished to (insert the name of your customer) on the job of (insert the name of the owner), for improvements to the following described project:

(description of project)

DATED ON

(Claimant) By:

(d) A person may not require a claimant to furnish a waiver that is different from the forms in paragraphs (b) and (c).

(e) A claimant who executes a waiver in exchange for a check may condition the waiver on payment of the check.

(f) A waiver that is not substantially similar to the forms in this subsection is enforceable in accordance with its terms.

(3) The bond required in subsection (1) may be in substantially the following form:

PUBLIC CONSTRUCTION BOND

Bond No. (enter bond number)

BY THIS BOND, We _____, as Principal and _____, a corporation, as Surety, are bound to _____, herein called Owner, in the sum of \$_____, for payment of which we bind ourselves, our heirs, personal representatives, successors, and assigns, jointly and severally.

THE CONDITION OF THIS BOND is that if Principal:

- 1. Performs the contract dated _____, _____, between Principal and Owner for construction of _____, the contract being made a part of this bond by reference, at the times and in the manner prescribed in the contract; and
- 2. Promptly makes payments to all claimants, as defined in Section 255.05(1), Florida Statutes, supplying Principal with labor, materials, or supplies, used directly or indirectly by Principal in the prosecution of the work provided for in the contract; and
- 3. Pays Owner all losses, damages, expenses, costs, and attorney's fees, including appellate proceedings, that Owner sustains because of a default by Principal under the contract; and
- 4. Performs the guarantee of all work and materials furnished under the contract for the time specified in the contract, then this bond is void; otherwise it remains in full force.

Any action instituted by a claimant under this bond for payment must be in accordance with the notice and time limitation provisions in Section 255.05, Florida Statutes.

Any changes in or under the contract documents and compliance or noncompliance with any formalities connected with the contract or the changes does not affect Surety's obligation under this bond.

DATED ON _____, _____.

... (Name of Principal) ...

By ... (As Attorney in Fact) ...

... (Name of Surety) ...

(4) The payment provisions of all bonds required by furnished for public work contracts described in subsection (1) shall, regardless of form, be construed and deemed statutory bonds furnished pursuant to this section and such bonds shall not under any circumstances be converted into common law bonds bond provisions, subject to all requirements of subsection (2).

(5) In addition to the provisions of chapter 47, any action authorized under this section may be brought in the county in which the public building or public work is being constructed or repaired. This subsection shall not apply to an action instituted prior to May 17, 1977.

(6) All bonds executed pursuant to this section shall make reference to this section by number and shall contain reference to the notice and time limitation provisions of this section.

(6)(7) In lieu of the bond required by this section, a contractor may file with the state, county, city, or other political authority an alternative form of security in the form of cash, a money order, a certified check, a cashier's check, an irrevocable letter of credit, or a security of a type listed in part II of chapter 625. Any such alternative form of security shall be for the same purpose and be subject to the same conditions as those applicable to the bond required by this section. The determination of the value of an alternative form of security shall be made by the appropriate state, county, city, or other political subdivision.

(7)(8) When a contractor has furnished a payment bond pursuant to this section, he or she may, when the state, county, municipality, political subdivision, or other public authority makes any payment to the contractor or directly to a claimant, serve a written demand on any claimant who is not in privity with the contractor for a written statement under oath of his or her account showing the nature of the labor or services performed and to be performed, if any; the materials furnished;

the materials to be furnished, if known; the amount paid on account to date; the amount due; and the amount to become due, if known, as of the date of the statement by the claimant. Any such demand to a claimant who is not in privity with the contractor must be served on the claimant at the address and to the attention of any person who is designated to receive the demand in the notice to contractor served by the claimant. The failure or refusal to furnish the statement does not deprive the claimant of his or her rights under the bond if the demand is not served at the address of the claimant or directed to the attention of the person designated to receive the demand in the notice to contractor. The failure to furnish the statement within 30 days after the demand, or the furnishing of a false or fraudulent statement, deprives the claimant who fails to furnish the statement, or who furnishes the false or fraudulent statement, of his or her rights under the bond. If the contractor serves more than one demand for statement of account on a claimant and none of the information regarding the account has changed since the claimant's last response to a demand, the failure or refusal to furnish such statement does not deprive the claimant of his or her rights under the bond. The negligent inclusion or omission of any information deprives the claimant of his or her rights under the bond to the extent that the contractor can demonstrate prejudice from such act or omission by the claimant. The failure to furnish a response to a demand for statement of account does not affect the validity of any claim on the bond being enforced in a lawsuit filed before the date the demand for statement of account is received by the claimant.

(8)(9) On any public works project for which the public authority requires a performance and payment bond, suits at law and in equity may be brought and maintained by and against the public authority on any contract claim arising from breach of an express provision or an implied covenant of a written agreement or a written directive issued by the public authority pursuant to the written agreement. In any such suit, the public authority and the contractor shall have all of the same rights and obligations as a private person under a like contract except that no liability may be based on an oral modification of either the written contract or written directive. Nothing herein shall be construed to waive the sovereign immunity of the state and its political subdivisions from equitable claims and equitable remedies. The provisions of this subsection shall apply only to contracts entered into on or after July 1, 1999.

(9) An action, except an action for recovery of retainage, must be instituted against the contractor or the surety on the payment bond or the payment provisions of a combined payment and performance bond within 1 year after the performance of the labor or completion of delivery of the materials or supplies. An action for recovery of retainage must be instituted against the contractor or the surety within 1 year after the performance of the labor or completion of delivery of the materials or supplies, provided that such an action may not be instituted until one of the following conditions is satisfied:

(a) The public entity has paid out the claimant's retainage to the contractor, and the time provided under s. 255.073(3) for payment of that retainage to the claimant has expired;

(b) The claimant has completed all work required under its contract and 70 days have passed since the contractor sent its final payment request to the public entity; or

(c) The claimant has asked the contractor, in writing, when the contractor received payment of the claimant's retainage or when the contractor sent its final payment request to the public entity, and the contractor has failed to respond to this request, in writing, within 10 days after receipt.

If none of the conditions described in paragraph (a), paragraph (b), or paragraph (c) is satisfied and an action for recovery of retainage therefore cannot be instituted within the 1-year limitation period set forth in this subsection, this limitation period shall be extended until 120 days after one of these conditions is satisfied.

Section 14. Paragraph (b) of subsection (2) of section 95.11, Florida Statutes, is amended to read:

95.11 Limitations other than for the recovery of real property.—Actions other than for recovery of real property shall be commenced as follows:

- (2) WITHIN FIVE YEARS.—

(b) A legal or equitable action on a contract, obligation, or liability founded on a written instrument, except for an action to enforce a claim against a payment bond, which shall be governed by the applicable provisions of ss. 255.05(9) ~~255.05(2)(a)2.~~ and 713.23(1)(e).

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, lines 3-6, delete those lines and insert: amending s. 218.70, F.S.; providing a short title; amending s. 218.72, F.S.; redefining terms used in part VII of ch. 218, F.S.; amending s. 218.735, F.S.; revising provisions relating to timely payment for purchases of construction services; revising deadlines for payment; providing procedures for project closeout and payment of retainage; providing requirements for local government construction retainage; providing that ss. 218.72-218.76, F.S., apply to the payment of any payment request for retainage; providing exceptions; creating s. 255.0705, F.S.; providing a short title; amending s. 255.071, F.S.; revising deadlines for the payment of subcontractors, sub-subcontractors, materialmen, and suppliers on construction contracts for public projects; creating ss. 255.072, 255.073, 255.074, 255.075, 255.076, 255.077, and 255.078, F.S.; providing definitions; providing for timely payment for purchases of construction services by a public entity; providing procedures for calculating payment due dates; providing procedures for handling improper payment requests; providing for the resolution of disputes; providing for project closeout and payment of retainage; providing that ss. 255.072-255.076, F.S., apply to the payment of any payment request for retainage; providing exceptions; amending s. 255.05, F.S.; providing that certain restrictions in bonds issued for public works projects are unenforceable; providing requirements for certain notices of nonpayment served by a claimant who is not in privity with the contractor; revising the form for a public construction bond; requiring the payment provisions of all public construction bonds to be construed as statutory bonds; prohibiting conversion to common law bonds; deleting obsolete language; deleting a requirement that bond forms used by public owners reference certain notice and time limitation provisions; providing limitations on a claimant's institution of certain actions against a contractor or surety; amending s. 95.11, F.S., to conform a cross-reference;

Pursuant to Rule 4.19, **SB 2754** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

CS for CS for SB 2994—A bill to be entitled An act relating to the Department of Financial Services; creating s. 17.0416, F.S.; authorizing the Chief Financial Officer to provide certain services on a fee basis under certain circumstances; requiring the Department of Financial Services to deposit fees collected into the General Revenue Fund; authorizing the department to recover expenses by a budget amendment; authorizing the department to adopt rules; amending s. 17.16, F.S.; providing that the office of the Chief Financial Officer may have an official seal; amending s. 17.57, F.S.; authorizing the Chief Financial Officer to use reverse repurchase agreements in investment transactions; amending s. 17.59, F.S.; revising collateral safekeeping requirements; amending s. 17.61, F.S.; authorizing entities created under the State Constitution to invest funds; amending s. 20.121, F.S.; providing that the Chief Financial Officer may be referred to as the "Treasurer"; providing that the Department of Financial Services, rather than the Office of Insurance Regulation, is responsible for regulation of insurance adjusters; providing that the Director of the Office of Insurance Regulation may be known as the Commissioner of Insurance Regulation; providing that the Director of the Office of Financial Regulation may be known as the Commissioner of Financial Regulation; amending s. 110.1227, F.S.; providing that the Director of the Office of Insurance Regulation, rather than the Chief Financial Officer, shall appoint an actuary to the Florida Employee Long-Term-Care Plan Board of Directors; amending s. 112.215, F.S.; redefining the term "employee" to include any state university board of trustees; providing for the Government Employees' Deferred Compensation Plan to be funded indirectly from fees charged by investment providers to plan participants; replacing the term "plan provider" with the term "investment option provider"; amending s. 215.95, F.S.; revising the membership of the Florida Financial Management Information Board; amending s. 215.96, F.S.; revising the membership of the coordinating council to the Florida Financial Management Information Board; extending the date of future repeal of the law requiring the board to facilitate the integration of certain administrative and financial management systems and establishing the Enterprise Resource Planning Integration Task Force; amending s. 287.064,

F.S.; authorizing the financing of a guaranteed energy performance savings contract pursuant to a master equipment financing agreement; providing certain terms and restrictions; amending s. 408.05, F.S.; providing that the Director of the Office of Insurance Regulation, rather than the Chief Financial Officer, shall appoint an employee to the State Comprehensive Health Information System Advisory Council; amending s. 501.212, F.S.; specifying persons, causes of action, or activities that are exempt from part II of chapter 501, F.S., the Deceptive and Unfair Trade Practice Act; amending s. 516.35, F.S.; correcting a reference to the agency that licenses the sale of credit insurance; amending ss. 624.313, 624.317, 624.501, 626.016, 626.112, 626.161, 626.171, 626.181, 626.191, 626.211, 626.221, 626.231, 626.241, 626.251, 626.261, 626.266, 626.271, 626.281, 626.2817, 626.291, 626.301, 626.371, 626.381, 626.431, 626.461, 626.471, 626.521, 626.541, 626.551, 626.611, 626.621, 626.631, 626.641, 626.661, 626.681, 626.691, 626.692, 626.8582, 626.8584, 626.859, 626.863, 626.865, 626.866, 626.867, 626.869, 626.8695, 626.8696, 626.8697, 626.8698, 626.870, 626.871, 626.872, 626.873, 626.8732, 626.8734, 626.8736, 626.8738, 626.874, 626.878, F.S.; transferring and renumbering s. 627.7012, F.S., as s. 626.879, F.S., and amending such section; making conforming changes to authorize the Department of Financial Services, rather than the Office of Insurance Regulation, to regulate insurance adjusters; amending s. 626.9543, F.S.; specifying that the Department of Financial Services, rather than the former Department of Insurance, administers the Holocaust Victims Insurance Act; amending s. 626.989, F.S.; correcting references to the Bureau of Workers' Compensation Insurance Fraud with regard to the required annual report of the Department of Financial Services related to workers' compensation fraud; amending s. 627.0628, F.S.; providing that the Director of the Office of Insurance, rather than the Chief Financial Officer, shall appoint an employee of the office who is an actuary to the Florida Commission on Hurricane Loss Projection Methodology; amending s. 627.6699, F.S.; providing that the Director of the Office of Insurance Regulation, rather than the Chief Financial Officer, shall be a member of the board of the Small Employer Health Reinsurance Program; providing that the transfer of the regulation of adjusters from the Office of Insurance Regulation to the Department of Financial Services does not affect any administrative or judicial action prior to or pending on the effective date of the act; providing that any action approved or authorized by the Financial Services Commission or the Office of Insurance Regulation continues to be effective until the Department of Financial Services otherwise prescribes; providing that the rules of the Financial Services Commission related to adjusters shall become rules of the Department of Financial Services; providing an effective date.

—was read the second time by title.

Senator Clary moved the following amendment which was adopted:

Amendment 1 (945942)—On page 5, lines 15-18, delete those lines and insert: *be deposited into the General Revenue Fund.*

Senator Posey moved the following amendments which were adopted:

Amendment 2 (241388)(with title amendment)—On page 25, between lines 19 and 20, insert:

Section 17. Subsections (3) and (4) are added to section 624.4622, Florida Statutes, to read:

624.4622 Local government self-insurance funds.—

(3) *Notwithstanding subsection (2), a local government self-insurance fund created under this section after October 1, 2004, shall initially be subject to the requirements of a commercial fund under s. 624.4621 and, for the first 5 years of its existence, shall be subject to all the requirements applied to commercial self-insurance funds or to group self-insurance funds, respectively.*

(4)(a) *A local government self-insurance fund formed after January 1, 2005, shall, for its first 5 fiscal years, file with the office full and true statements of its financial condition, transactions, and affairs. An annual statement covering the preceding fiscal year shall be filed within 60 days after the end of the fund's fiscal year and quarterly statements shall be filed within 45 days after each such date. The office may, for good cause, grant an extension of time for filing an annual or quarterly statement. The statements shall contain information generally included in insurers' financial statements prepared in accordance with generally accepted insurance accounting principles and practices and in a form generally used by insurers for financial statements, sworn to by at least*

two executive officers of the self-insurance fund. The form for financial statements shall be the form currently approved by the National Association of Insurance Commissioners for use by property and casualty insurers.

(b) Each annual statement shall contain a statement of opinion on loss and loss adjustment expense reserves made by a member of the American Academy of Actuaries. Workpapers in support of the statement of opinion must be provided to the office upon request.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 3, line 8, after the semicolon (;) insert: amending s. 624.4622, F.S.; providing that a local government self-insurance fund must initially be organized as a commercial self-insurance fund or a group self-insurance fund and, for a specified period, must comply with the requirements for such a fund; providing that a local government self-insurance fund comply with specified provisions relating to financial statements;

Amendment 3 (431674)(with title amendment)—On page 75, between lines 11 and 12, insert:

Section 77. Subsection (4) is added to section 626.99245, Florida Statutes, to read:

626.99245 Conflict of regulation of viaticals.—

(4) The offer, sale, and purchase of viatical settlement contracts, and the regulation of viatical settlement providers shall be within the exclusive jurisdiction of the Office of Insurance Regulation under the provisions of part X of chapter 626.

And the title is amended as follows:

On page 4, line 30, after the semicolon (;) insert: amending s. 626.99245, F.S.; providing that the regulation of certain viatical settlement agreements and providers is within the exclusive jurisdiction of the Office of Insurance Regulation under part X of ch. 626;

Senator Alexander moved the following amendment which was adopted:

Amendment 4 (813944)(with title amendment)—On page 80, between lines 10 and 11, insert:

Section 82. Subsection (10) is added to section 494.0025, Florida Statutes, to read:

494.0025 Prohibited practices.—It is unlawful for any person:

(10) To use the name or logo of a financial institution, as defined in s. 655.005(1), or its affiliates or subsidiaries when marketing or soliciting existing or prospective customers if such marketing materials are used without the written consent of the financial institution and in a manner that would lead a reasonable person to believe that the material or solicitation originated from, was endorsed by, or is related to or the responsibility of the financial institution or its affiliates or subsidiaries.

Section 83. Paragraph (o) is added to subsection (1) of section 516.07, Florida Statutes, to read:

516.07 Grounds for denial of license or for disciplinary action.—

(1) The following acts are violations of this chapter and constitute grounds for denial of an application for a license to make consumer finance loans and grounds for any of the disciplinary actions specified in subsection (2):

(o) Using the name or logo of a financial institution, as defined in s. 655.005(1), or its affiliates or subsidiaries when marketing or soliciting existing or prospective customers if such marketing materials are used without the written consent of the financial institution and in a manner that would lead a reasonable person to believe that the material or solicitation originated from, was endorsed by, or is related to or the responsibility of the financial institution or its affiliates or subsidiaries.

Section 84. Paragraph (j) is added to subsection (1) of section 520.995, Florida Statutes, to read:

520.995 Grounds for disciplinary action.—

(1) The following acts are violations of this chapter and constitute grounds for the disciplinary actions specified in subsection (2):

(j) Using the name or logo of a financial institution, as defined in s. 655.005(1), or its affiliates or subsidiaries when marketing or soliciting existing or prospective customers if such marketing materials are used without the written consent of the financial institution and in a manner that would lead a reasonable person to believe that the material or solicitation originated from, was endorsed by, or is related to or the responsibility of the financial institution or its affiliates or subsidiaries.

Section 85. Paragraph (bb) is added to subsection (1) of section 626.9541, Florida Statutes, to read:

626.9541 Unfair methods of competition and unfair or deceptive acts or practices defined.—

(1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE ACTS.—The following are defined as unfair methods of competition and unfair or deceptive acts or practices:

(bb) Deceptive use of name.—Using the name or logo of a financial institution, as defined in s. 655.005(1), or its affiliates or subsidiaries when marketing or soliciting existing or prospective customers if such marketing materials are used without the written consent of the financial institution and in a manner that would lead a reasonable person to believe that the material or solicitation originated from, was endorsed by, or is related to or the responsibility of the financial institution or its affiliates or subsidiaries.

Section 86. Paragraphs (h) and (p) of subsection (1) of section 655.005, Florida Statutes, are amended to read:

655.005 Definitions.—

(1) As used in the financial institutions codes, unless the context otherwise requires, the term:

(h) “Financial institution” means a state or federal association, bank, savings bank, trust company, international bank agency, *international branch*, representative office or international administrative office, or credit union.

(p) “State financial institution” means a state-chartered or state-organized association, bank, investment company, trust company, international bank agency, *international branch*, international representative office, international administrative office, or credit union.

Section 87. Subsection (1) of section 655.0322, Florida Statutes, is amended to read:

655.0322 Prohibited acts and practices; criminal penalties.—

(1) As used in this section, the term “financial institution” means a financial institution as defined in s. 655.50 which includes a state trust company, state or national bank, state or federal association, state or federal savings bank, state or federal credit union, Edge Act or agreement corporation, international bank agency, *international branch*, representative office or administrative office or other business entity as defined by the commission by rule, whether organized under the laws of this state, the laws of another state, or the laws of the United States, which institution is located in this state.

Section 88. Section 655.0385, Florida Statutes, is amended to read:

655.0385 Disapproval of directors and executive officers.—

(1) Each state financial institution shall notify the office of the proposed appointment of any individual to the board of directors or the appointment or employment of any individual as an executive officer or equivalent position at least 60 days before such appointment or employment becomes effective, if the state financial institution:

(a) Has been chartered for less than 2 years;

(b) Has undergone a change in control or conversion within the preceding 2 years. The office may exempt a financial institution from this paragraph if it operates in a safe and sound manner;

(c) Is not in compliance with the minimum capital requirements applicable to such financial institution; or

(d) Is otherwise operating in an unsafe and unsound condition, as determined by the office, on the basis of such financial institution's most recent report of condition or report of examination.

(2) A state financial institution may not appoint any individual to the board of directors, or employ any individual as an executive officer or equivalent position, if the office issues a notice of disapproval with respect to that person.

(3) The office shall issue a notice of disapproval if the competence, experience, character, or integrity of the individual to be appointed or employed indicates that it is not in the best interests of the depositors, the members, or the public to permit the individual to be employed by or associated with the state financial institution.

(4) *Beginning 1 year after opening, each notification of a proposed appointment of an individual to the board of directors must be accompanied by a nonrefundable fee of \$35.*

(5)(4) The commission may adopt rules to implement this section.

Section 89. Subsection (3) of section 655.045, Florida Statutes, is amended to read:

655.045 Examinations, reports, and internal audits; penalty.—

(3)(a) The board of directors of each state financial institution or, in the case of a credit union, the supervisory committee or audit committee shall perform or cause to be performed, within each calendar year, an internal audit of each state financial institution, subsidiary, or service corporation and to file a copy of the report and findings of such audit with the office on a timely basis. Such internal audit must include such information as the commission by rule requires for that type of institution.

(b) With the approval of the office, the board of directors or, in the case of a credit union, the supervisory committee may elect, in lieu of such periodic audits, to adopt and implement an adequate continuous audit system and procedure which must include full, adequate, and continuous written reports to, and review by, the board of directors or, in the case of a credit union, the supervisory committee, together with written statements of the actions taken thereon and reasons for omissions to take actions, all of which shall be noted in the minutes and filed among the records of the board of directors or, in the case of a credit union, the supervisory committee. If at any time such continuous audit system and procedure, including the reports and statements, becomes inadequate, in the judgment of the office, the state financial institution shall promptly make such changes as may be required by the office to cause the same to accomplish the purpose of this section.

(c) *Any de novo state financial institution open less than 4 months is exempt from the audit requirements of this section.*

Section 90. Subsection (1) of section 655.059, Florida Statutes, is amended to read:

655.059 Access to books and records; confidentiality; penalty for disclosure.—

(1) The books and records of a financial institution are confidential and shall be made available for inspection and examination only:

(a) To the office or its duly authorized representative;

(b) To any person duly authorized to act for the financial institution;

(c) To any federal or state instrumentality or agency authorized to inspect or examine the books and records of an insured financial institution;

(d) With respect to an international banking corporation, to the home-country supervisor of the corporation, provided:

1. The supervisor provides advance notice to the office that the supervisor intends to examine the Florida office of the corporation.

2. The supervisor confirms to the office that the purpose of the examination is to ensure the safety and soundness of the corporation.

3. The books and records pertaining to customer deposit, investment, and custodial accounts are not disclosed to the supervisor.

4. At any time during the conduct of the examination, the office reserves the right to have an examiner present or to participate jointly in the examination.

For purposes of this paragraph, "home-country supervisor" means the governmental entity in the corporation's home country with responsibility for the supervision and regulation of the corporation;

(e) *As compelled by a court of competent jurisdiction, pursuant to a subpoena issued pursuant to the Florida Rules of Civil or Criminal Procedure or the Federal Rules of Civil Procedure, or pursuant to a subpoena issued in accordance with state or federal law. Prior to the production of the books and records of a financial institution, the party seeking production must reimburse the financial institution for the reasonable costs and fees incurred in compliance with the production. If the parties disagree regarding the amount of reimbursement, the party seeking the records may request the court or agency having jurisdiction to set the amount of reimbursement;*

(f) As compelled by legislative subpoena as provided by law, in which case the provisions of s. 655.057 apply;

(g) Pursuant to a subpoena, to any federal or state law enforcement or prosecutorial instrumentality authorized to investigate suspected criminal activity;

(h) As authorized by the board of directors of the financial institution; or

(i) As provided in subsection (2).

Section 91. Section 655.921, Florida Statutes, is amended to read:

655.921 Transaction of business by out-of-state financial institutions; exempt transactions in the financial institutions codes.—

(1) Nothing in the financial institutions codes shall be construed to prohibit a financial institution having its principal place of business outside this state *and not operating branches in this state* from:

(a) Contracting in this state with any person to acquire from such person a part, or the entire, interest in a loan that such person proposes to make, has heretofore made, or hereafter makes, together with a like interest in any security instrument covering real or personal property in the state proposed to be given or hereafter or heretofore given to such person to secure or evidence such loan.

(b) Entering into mortgage servicing contracts with persons authorized to transact business in this state and enforcing in this state the obligations heretofore or hereafter acquired by it in the transaction of business outside this state or in the transaction of any business authorized by this section.

(c) Acquiring, holding, leasing, mortgaging, contracting with respect to, or otherwise protecting, managing, or conveying property in this state which has heretofore or may hereafter be assigned, transferred, mortgaged, or conveyed to it as security for, or in whole or in part in satisfaction of, a loan or loans made by it or obligations acquired by it in the transaction of any business authorized by this section.

(d) Making loans or committing to make loans to any person located in this state and soliciting compensating deposit balances in connection therewith.

(2) No such financial institution shall be deemed to be transacting business in this state, or be required to qualify so to do, solely by reason of the performance of any of the acts or business authorized in this section. ~~This section does not authorize or permit any such financial institution to maintain an office within the state.~~

Section 92. Section 655.922, Florida Statutes, is amended to read:

655.922 Banking business by unauthorized persons; use of name.—

(1) No person other than a financial institution authorized to do business in this state pursuant to the financial institutions codes of any state or federal law shall, in this state, engage in the business of soliciting or receiving funds for deposit or of issuing certificates of deposit or of paying checks; and no person shall establish or maintain a place of business in this state for any of the functions, transactions, or purposes mentioned in this subsection. Any person who violates the provisions of this subsection is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. This subsection does not prohibit the issuance or sale by a financial institution of traveler's checks, money orders, or other instruments for the transmission or payment of money, by or through employees or agents of the financial institution off the financial institution's premises.

(2) No person other than a financial institution shall, in this state:

(a) Transact business under any name or title that contains the words "bank," "banco," "banque," "banker," "banking," "trust company," "savings and loan association," "savings bank," or "credit union," or words of similar import, in any context or in any manner;

(b) Use any name, word, sign, symbol, or device in any context or in any manner; or

(c) Circulate or use any letterhead, billhead, circular, paper, or writing of any kind or otherwise advertise or represent in any manner,

which indicates or reasonably implies that the business being conducted or advertised is the kind or character of business transacted or conducted by a financial institution or which is likely to lead any person to believe that such business is that of a financial institution; however, the words "bank," "banker," "banking," "trust company," "savings and loan association," "savings bank," or "credit union," or the plural of any thereof, may be used by, and in the corporate or other name or title of, any company which is or becomes a financial institution holding company pursuant to federal law; any subsidiary of any such financial institution holding company which includes as a part of its name or title all or any part, or abbreviations, of the name or title of the financial institution holding company of which it is a subsidiary; any trade organization or association, whether or not incorporated, functioning for the purpose of promoting the interests of financial institutions or financial institution holding companies, the active members of which are financial institutions or financial institution holding companies; and any international development bank chartered pursuant to part II of chapter 663.

(3) No person may use the name or logo of any financial institution or an affiliate or subsidiary thereof, or use a name similar to that of a financial institution or an affiliate or subsidiary thereof, to market or solicit business from a customer or prospective customer of such institution if:

(a) The solicitation is done without the written consent of the financial institution or its affiliate or subsidiary; and

(b) A reasonable person would believe that the materials originated from, are endorsed by, or are connected with the financial institution or its affiliates or subsidiaries.

(4)(3) Any court, in a proceeding brought by the office, by any financial institution the principal place of business of which is in this state, or by any other person residing, or whose principal place of business is located, in this state and whose interests are substantially affected thereby, may enjoin any person from violating any of the provisions of this section. For the purposes of this subsection, the interests of a trade organization or association are deemed to be substantially affected if the interests of any of its members are so affected. In addition, the office may issue and serve upon any person who violates any of the provisions of this section a complaint seeking a cease and desist order in accordance with the procedures and in the manner prescribed by s. 655.033.

(5)(4) Nothing in this section shall be construed to prohibit the lawful establishment or the lawful operations of a financial institution and nothing in this code shall be construed to prohibit any advertisement or other activity in this state by any person if such prohibition would contravene any applicable federal law which preempts the law of this state.

(6) The commission shall adopt rules to administer this section.

Section 93. Subsection (1) of section 655.94, Florida Statutes, is amended to read:

655.94 Special remedies for nonpayment of rent.—

(1) If the rental due on a safe-deposit box has not been paid for 3 months, the lessor may send a notice by ~~certified registered~~ mail to the last known address of the lessee stating that the safe-deposit box will be opened and its contents stored at the expense of the lessee unless payment of the rental is made within 30 days. If the rental is not paid within 30 days from the mailing of the notice, the box may be opened in the presence of an officer of the lessor and of a notary public ~~who is not a director, officer, employee, or stockholder of the lessor~~. The contents shall be sealed in a package by a notary public who shall write on the outside the name of the lessee and the date of the opening. The notary public shall execute a certificate reciting the name of the lessee, the date of the opening of the box, and a list of its contents. The certificate shall be included in the package, and a copy of the certificate shall be sent by ~~certified registered~~ mail to the last known address of the lessee. The package shall then be placed in the general vaults of the lessor at a rental not exceeding the rental previously charged for the box. The lessor has a lien on the package and its contents to the extent of any rental due and owing plus the actual, reasonable costs of removing the contents from the safe-deposit box.

Section 94. Section 658.16, Florida Statutes, is amended to read:

658.16 Creation of banking or trust corporation.—

(1) When authorized by the office, as provided herein, a corporation may be formed under the laws of this state for the purpose of becoming a state bank or a state trust company and conducting a general banking or trust business.

(2) A bank or trust company that is chartered as a limited liability company under the law of any state is deemed to be incorporated under the financial institutions codes if:

(a) The institution is not subject to automatic termination, dissolution, or suspension upon the occurrence of an event including the death, disability, bankruptcy, expulsion, or withdrawal of an owner of the institution, other than the passage of time;

(b) The exclusive authority to manage the institution is vested in a board of managers or directors that is elected or appointed by the owners which operates in substantially the same manner as, and has substantially the same rights, powers, privileges, duties, and responsibilities, as a board of directors of a bank or trust company chartered as a corporation; and

(c) Neither the laws of the state of the institution's organization nor the institution's operating agreement, bylaws, or other organizational documents:

1. Provide that an owner of the institution is liable for the debts, liabilities, or obligations of the institution in excess of the amount of the owner's investment; or

2. Require the consent of any other owner of the institution in order for an owner to transfer an ownership interest in the institution, including voting rights.

(3) As used in the financial institutions codes, the term:

(a) "Stockholder" or "shareholder" includes an owner of any interest in a bank or trust company chartered as a limited liability company, including a member or participant;

(b) "Director" includes a manager or director of a bank or trust company chartered as a limited liability company, or other person who has, with respect to such a bank or trust company, authority substantially similar to that of a director of a corporation;

(c) "Officer" includes an officer of a bank or trust company chartered as a limited liability company, or other person who has, with respect to such a bank or trust company, authority substantially similar to that of an officer of a corporation;

(d) "Stock," "voting stock," "voting shares," and "voting securities" includes similar ownership interests in a bank or trust company char-

tered as a limited liability company, including certificates or other evidence of ownership interests;

(e) "Articles of incorporation" or "bylaws" of a bank or trust company chartered as a limited liability company means the institution's articles of organization and operating agreement or other organizational documentation that is substantially similar to that of a corporation;

(f) "Par value" of any ownership interest in a bank or trust company chartered as a limited liability company means the amount of capital which must be invested for each unit of ownership; and

(g) "Dividend" includes distributions of earnings to the owners of a bank or trust company chartered as a limited liability company.

Section 95. Subsection (5) of section 658.23, Florida Statutes, is amended to read:

658.23 Submission of articles of incorporation; contents; form; approval; filing; commencement of corporate existence; bylaws.—

(5) Unless the articles of incorporation provide otherwise, the board of directors shall have authority to adopt or amend bylaws that do not conflict with bylaws that may have been adopted by the stockholders. The bylaws shall be for the *governance* government of the bank or trust company, subordinate only to the articles of incorporation and the laws of the United States and of this state. ~~A current copy of the bylaws shall be filed with the office at all times.~~

Section 96. Section 658.26, Florida Statutes, is amended to read:

658.26 Places of transacting business; branches; facilities.—

(1) Any bank or trust company heretofore or hereafter incorporated pursuant to this chapter shall have one main office, which shall be located within the state.

(2)(a) In addition, with the approval of the office and upon such conditions as the commission or office prescribes, any *state* bank or trust company may establish branches or *relocate offices* within or outside the state. With the approval of the office upon a determination that the resulting bank or trust company will be of sound financial condition, any bank or trust company incorporated pursuant to this chapter may establish branches by merger with any other bank or trust company.

(b) *As provided by commission rules, a financial institution operating in a safe and sound manner may establish or relocate an office by filing a written notice with the office at least 30 days before opening or relocating that office, without filing an application or paying an application fee. The notification must specify the name and location of the office and effective date of the change. The relocation of a main office to a location outside this state must be by application only.*

(c) *Applications filed pursuant to this subsection need not be published in the Florida Administrative Weekly, but shall otherwise be subject to chapter 120.*

~~(d)(b) An application to establish for a branch by a bank that is ineligible does not meet the requirements for the branch notification process shall be in writing in such form as the commission prescribes and be supported by such information, data, and records as the commission or office may require to make findings necessary for approval. Applications filed pursuant to this subsection shall not be published in the Florida Administrative Weekly but shall otherwise be subject to the provisions of chapter 120. Upon the filing of an application and a nonrefundable filing fee for the establishment of any branch permitted by paragraph (a), the office shall make an investigation with respect to compliance with the requirements of paragraph (a) and shall investigate and consider all factors relevant to such requirements, including the following:~~

1. The sufficiency of capital accounts in relation to the deposit liabilities of the bank, or in relation to the number and valuation of fiduciary accounts of the trust company, including the proposed branch, and the additional fixed assets, if any, which are proposed for the branch and its operations, without undue risk to the bank or its depositors, or undue risk to the trust company or its fiduciary accounts;

2. The sufficiency of earnings and earning prospects of the bank or trust company to support the anticipated expenses and any anticipated operating losses of the branch during its formative or initial years;

3. The sufficiency and quality of management available to operate the branch;

4. The name of the proposed branch to determine if it reasonably identifies the branch as a branch of the main office and is not likely to unduly confuse the public; and

5. Substantial compliance by the applicants with applicable law governing their operations.

~~(e)(e) A state bank that is not eligible for notification of a branch relocation must file an application in the form required by the commission. Upon the filing of a relocation application and a nonrefundable filing fee, the office shall investigate to determine whether the financial institution has substantially complied with applicable law governing its operations. Additional investments in land, buildings, leases, and leasehold improvements resulting from such relocation must comply with the limitations imposed by s. 658.67(7)(a). A main office may not be moved outside this state unless the move is expressly authorized by the financial institutions codes or by federal law. A financial institution that has been in operation for less than 24 months must provide evidence that the criteria of s. 658.21(1) will be met. As provided by commission rule, a financial institution operating in a safe and sound manner may establish a branch by filing a written notice with the office at least 30 days before opening that branch. In such case, the financial institution need not file a branch application or pay a branch application fee.~~

~~(3)(a) An office in this state may be relocated with prior written approval of the office. An application for relocation shall be in writing in such form as the commission prescribes and shall be supported by such information, data, and records as the commission or office may require to make findings necessary for approval.~~

~~(b) Applications filed pursuant to this subsection shall not be published in the Florida Administrative Weekly but shall otherwise be subject to the provisions of chapter 120. Upon the filing of a relocation application and a nonrefundable filing fee, the office shall investigate to determine substantial compliance by the financial institution with applicable law governing its operations. Additional investments in land, buildings, leases, and leasehold improvements resulting from such relocation shall comply with the limitations imposed by s. 658.67(7)(a). A main office may not be moved outside this state unless expressly authorized by the financial institutions codes or by federal law.~~

~~(c) A relocation application filed by a state bank or trust company that is operating in a safe and sound manner which is not denied within 10 working days after receipt shall be deemed approved unless the office notifies the financial institution in writing that the application was not complete.~~

~~(d) In addition to the application required by paragraph (a), a financial institution whose main office in this state has been in operation less than 24 months must provide evidence that the criteria of s. 658.21(1) will be met.~~

~~(f)(e) A branch office may be closed with 30 days' prior written notice to the office. The notice shall include any information the commission prescribes by rule.~~

~~(3)(4) With prior written notification to the office, any bank may operate facilities which are not physically connected to the main or branch office of the bank, provided that the facilities are situated on the property of the main or branch office or property contiguous thereto. Property which is separated from the main or branch office of a bank by only a street, and one or more walkways and alleyways are determined to be, for purposes of this subsection, contiguous to the property of the main or branch office.~~

~~(4)(5) A bank may provide, directly or through a contract with another company, off-premises armored car service to its customers. Armored car services shall not be considered a branch for the purposes of subsection (2).~~

~~(5)(6)(a) Any state bank that is a subsidiary of a bank holding company may agree to receive deposits, renew time deposits, close loans, service loans, and receive payments on loans and other obligations, as an agent for an affiliated depository institution.~~

~~(b) The term "close loan" does not include the making of a decision to extend credit or the extension of credit.~~

(c) As used in this section, “receive deposits” means the taking of deposits to be credited to an existing account and does not include the opening or origination of new deposit accounts at an affiliated institution by the agent institution.

(d) Under this section, affiliated banks may act as agents for one another regardless of whether the institutions are located in the same or different states. This section applies solely to affiliated depository institutions acting as agents, and has no application to agency relationships concerning nondepositories as agent, whether or not affiliated with the depository institution.

(e) In addition, under this section, agent banks may perform ministerial functions for the principal bank making a loan. Ministerial functions include, but are not limited to, such activities as providing loan applications, assembling documents, providing a location for returning documents necessary for making the loan, providing loan account information, and receiving payments. It does not include such loan functions as evaluating applications or disbursing loan funds.

Section 97. Subsection (5) of section 658.33, Florida Statutes, is amended to read:

658.33 Directors, number, qualifications; officers.—

(5) The president, ~~or~~ chief executive officer, or any other person, regardless of title, who has equivalent rank or leads the overall operations of a bank or trust company must have had at least 1 year of direct experience as an executive officer, director, or regulator of a financial institution within the last 3 years. This requirement may be waived by the office after considering the overall experience and expertise of the proposed officer and the condition of the bank or trust company, as reflected in the most recent regulatory examination report and other available data.

Section 98. Section 658.37, Florida Statutes, is amended to read:

658.37 Dividends and surplus.—

(1) The directors of any bank or trust company, after charging off bad debts, depreciation, and other worthless assets if any, and making provision for reasonably anticipated future losses on loans and other assets, may quarterly, semiannually, or annually declare a dividend of so much of the aggregate of the net profits of that period combined with its retained net profits of the preceding 2 years as they shall judge expedient, and, with the approval of the office, any bank or trust company may declare a dividend from retained net profits which accrued prior to the preceding 2 years, but each bank or trust company shall, before the declaration of a dividend on its common stock, carry 20 percent of its net profits for such preceding period as is covered by the dividend to its surplus fund, until the same shall at least equal the amount of its common and preferred stock then issued and outstanding. No bank or trust company shall declare any dividend at any time at which its net income from the current year combined with the retained net income from the preceding 2 years is a loss or which would cause the capital accounts of the bank or trust company to fall below the minimum amount required by law, regulation, order, or any written agreement with the office or a state or federal regulatory agency. A bank or trust company may, however, split up or divide the issued shares of capital stock into a greater number of shares without increasing or decreasing the capital accounts of the bank or trust company, and such shall not be construed to be a dividend within the meaning of this section.

(2) A bank that has been determined to be imminently insolvent may not pay a dividend.

Section 99. Present subsection (10) of section 658.48, Florida Statutes, is redesignated as subsection (11), and a new subsection (10) is added to that section, to read:

658.48 Loans.—A state bank may make loans and extensions of credit, with or without security, subject to the following limitations and provisions:

(10) **IMMINENTLY INSOLVENT BANK.**—When the office has determined that a state bank is imminently insolvent, the bank may not make any new loans or discounts other than by discounting or purchasing bills of exchange payable at sight.

Section 100. Paragraph (a) of subsection (9) of section 658.67, Florida Statutes, is amended to read:

658.67 Investment powers and limitations.—A bank may invest its funds, and a trust company may invest its corporate funds, subject to the following definitions, restrictions, and limitations:

(9) **ACQUISITIONS OF PROPERTY AS SECURITY.**—A bank or trust company may acquire property of any kind to secure, protect, or satisfy a loan or investment previously made in good faith, and such property shall be entered on the books of the bank or trust company and held and disposed of subject to the following conditions and limitations:

(a) The book entry shall be the lesser of the balance of the loan or investment plus acquisition costs and accrued interest or the appraisal value or market value of the property acquired which shall be determined and dated within 1 year prior to or 90 days after the date of acquisition and in compliance with s. 655.60.

Section 101. Subsection (4) of section 658.73, Florida Statutes, is amended to read:

658.73 Fees and assessments.—

(4) Any individual or entity other than a financial institution chartered in this state must ~~Each state bank and state trust company shall~~ pay to the office \$25 for each “certificate of good standing” certifying that a state-chartered financial institution is licensed to conduct business in this state under the financial institutions codes. All such requests shall be in writing. The office shall waive this fee when the request is by a state or federal regulatory agency or law enforcement agency.

Section 102. Subsections (4) and (7) of section 663.16, Florida Statutes, are amended to read:

663.16 Definitions; ss. 663.17-663.181.—As used in ss. 663.17-663.181, the term:

(4) Except where the context otherwise requires, “international banking corporation” or “corporation” means any international bank agency or branch operating in this state.

(7) “Control” means any person or group of persons acting in concert, directly or indirectly, owning, controlling, or holding the power to vote 25 ~~more than 50~~ percent or more of the voting stock of a company, or having the ability in any manner to elect a majority of directors of a corporation, or otherwise exercising a controlling influence over the management and policies of a corporation as determined by the office.

Section 103. Subsection (1) of section 663.304, Florida Statutes, is amended to read:

663.304 Application for authority to organize an international development bank.—

(1) A written application for authority to organize an international development bank shall be filed with the office by the proposed incorporator and shall include:

(a) The name, residence, and occupation of each incorporator and proposed director.

~~(b) The proposed corporate name and evidence of reservation of the proposed corporate name with the Department of State.~~

~~(b)(e)~~ The total initial capital and the number of shares of capital stock to be authorized.

~~(c)(d)~~ The location, by street and post-office address and county, of the principal office of the proposed international development bank.

~~(d)(e)~~ If known, the name and residence of the proposed president and the proposed chief executive officer, if other than the proposed president.

~~(e)(f)~~ Such detailed financial, business, and biographical information as the commission or office may reasonably require for each proposed director and for the proposed president and the proposed chief executive officer, if other than the president.

Section 104. Paragraph (a) of subsection (4) of section 665.034, Florida Statutes, is amended to read:

665.034 Acquisition of assets of or control over an association.—

(4) For purposes of this section, a person or group of persons shall be deemed to have control of an association if such person or group of persons:

(a) Directly or indirectly, or acting in concert with one or more persons or through one or more subsidiaries, owns, controls, holds with powers to vote, or holds proxies representing ~~more than~~ 25 percent or more of the voting common stock of such association.

Section 105. Subsections (2) and (6) of section 674.406, Florida Statutes, are amended to read:

674.406 Customer's duty to discover and report unauthorized signature or alteration.—

(2) If the items are not returned to the customer, the person retaining the items shall either retain the items or, if the items are destroyed, maintain the capacity to furnish legible copies of the items until the expiration of 5 7 years after receipt of the items. A customer may request an item from the bank that paid the item, and that bank must provide in a reasonable time either the item or, if the item has been destroyed or is not otherwise obtainable, a legible copy of the item.

(6) Without regard to care or lack of care of either the customer or the bank, a customer who does not within 180 days ~~1 year~~ after the statement or items are made available to the customer (subsection (1)) discover and report the customer's unauthorized signature on or any alteration on the item *or who does not, within 1 year after that time, discover, and report any unauthorized endorsement* is precluded from asserting against the bank the unauthorized signature or alteration. If there is a preclusion under this subsection, the payor bank may not recover for breach of warranty under s. 674.2081 with respect to the unauthorized signature or alteration to which the preclusion applies.

Section 106. *Section 658.68, Florida Statutes, is repealed.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 4, line 30, after the semicolon (;) insert: amending s. 494.0025, F.S.; prohibiting the use of the name or logo of a financial institution or its affiliates or subsidiaries under certain circumstances without written consent; amending s. 516.07, F.S.; providing that the use of the name or logo of a financial institution or its affiliates or subsidiaries under certain circumstances without written consent is grounds for denial of license or for disciplinary action; amending s. 520.995, F.S.; providing that the use of the name or logo of a financial institution or its affiliates or subsidiaries under certain circumstances without written consent is grounds for disciplinary action; amending s. 626.9541, F.S.; providing that the deceptive use of a name is an unfair method of competition and an unfair or deceptive act or practice; amending s. 655.005, F.S.; revising certain definitions relating to financial institutions to include the term "international branch"; amending s. 655.0322, F.S.; revising the definition of the term "financial institution" to include an international branch; amending s. 655.0385, F.S.; clarifying requirements for notification of the appointment of an executive director or equivalent by state financial institutions; requiring a nonrefundable fee to accompany notification; amending s. 655.045, F.S.; providing an exemption from audit requirements; amending s. 655.059, F.S.; providing for the inspection and examination of financial institution records and books pursuant to subpoena; providing for reimbursement of reasonable costs and fees for compliance; providing for setting the reimbursement amount when charges are contested; amending s. 655.921, F.S.; prohibiting certain out-of-state financial institutions from locating branch offices in the state in order to qualify for certain exempt transactions; deleting provisions relating to authorization of offices in the state; amending s. 655.922, F.S.; clarifying provisions authorizing financial institutions under another state's financial codes to transact business in this state; expanding the names or titles under which only a financial institution may transact business; prohibiting the use of the name or logo of a financial institution or its affiliates or subsidiaries under certain circumstances without written consent; requiring the Financial Services Commission to adopt rules; amending s. 655.94, F.S.; deleting a prohibition against certain notary publics being involved in

opening safety deposit boxes for nonpayment of rent; requiring use of certified mail instead of registered mail; amending s. 658.16, F.S.; providing criteria for a bank or trust company chartered as a limited liability company to be considered "incorporated" under the financial institutions codes; providing definitions; amending s. 658.23, F.S.; correcting terminology; deleting a requirement for a current copy of the bylaws of a bank or trust company to be on file with the Office of Financial Regulation; amending s. 658.26, F.S.; providing for state banks to relocate offices upon approval; providing that certain financial institutions may establish or relocate an office upon written notification; providing requirements for notification and a fee; requiring an application for relocation of a main office outside the state; exempting applications from publication in the Florida Administrative Weekly; modifying requirements for applications for branch offices by a bank ineligible for branch notification; deleting a requirement that such applications be published in the Florida Administrative Weekly and be subject to ch. 120, F.S.; requiring a relocation application to be filed with the Office of Financial Regulation; providing for a filing fee, investigations, and restrictions relating to such applications; amending s. 658.33, F.S.; adding to the list of persons who must meet certain qualification levels; providing for a waiver of qualification requirements; amending s. 658.37, F.S.; prohibiting an imminently insolvent bank from paying dividends; amending s. 658.48, F.S.; specifying limitations on making loans and extending credit by a bank declared to be imminently insolvent; amending s. 658.67, F.S.; providing multiple dates for the assessment of the value of property acquisition as security; amending s. 658.73, F.S.; delineating which entities or individuals must pay a fee for a certificate of good standing; amending s. 663.16, F.S.; revising definitions to include the term "branch" and to reduce the percentage of voting stock necessary for consideration as control; amending s. 663.304, F.S.; deleting a requirement for reservation of a proposed corporate name with the Department of State; amending s. 665.034, F.S.; revising a percentage designating control of an association; amending s. 674.406, F.S.; reducing the time that banks must retain receipts of items; reducing the time within which one must report unauthorized signatures; providing a time limitation within which to assert claims against a bank for an unauthorized endorsement; repealing s. 658.68, F.S., relating to liquidity requirements for a state bank;

Senator Posey moved the following amendment which was adopted:

Amendment 5 (841710)(with title amendment)—On page 80, between lines 10 and 11, insert:

Section 82. Subsection (4) is added to section 627.4133, Florida Statutes, to read:

627.4133 Notice of cancellation, nonrenewal, or renewal premium.—

(4) *Notwithstanding the provisions of s. 440.42(3), if cancellation of a policy providing coverage for workers' compensation and employer's liability insurance is requested by the insured, such cancellation shall be effective on the date the carrier sends the notice of cancellation to the insured.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 4, line 30, after the semicolon (;) insert: amending s. 627.4133, F.S.; providing for an effective date of certain policy cancellations by insureds;

Senator Clary moved the following amendment:

Amendment 6 (931386)(with title amendment)—On page 80, between lines 10 and 11, insert:

Section 82. Subsection (15) of section 717.101, Florida Statutes, is renumbered as subsection (16) and amended, subsections (5) through (18) are renumbered as subsections (6) through (19), respectively, present subsection (19) is renumbered as subsection (21), and new subsections (5) and (20) are added to that section, to read:

717.101 Definitions.—As used in this chapter, unless the context otherwise requires:

(5) "Claimant" means the person on whose behalf a claim is filed.

~~(16)(15)~~ “Owner” means a depositor in the case of a deposit, a beneficiary in case of a trust or ~~other than a deposit in trust, a claimant, or a~~ payee in the case of other intangible property, or a person having a legal or equitable interest in property subject to this chapter or his or her legal representative.

(20) “Ultimate equitable owner” means a natural person who, directly or indirectly, owns or controls an ownership interest in a corporation, a foreign corporation, an alien business organization, or any other form of business organization, regardless of whether such natural person owns or controls such ownership interest through one or more natural persons or one or more proxies, powers of attorney, nominees, corporations, associations, partnerships, trusts, joint stock companies, or other entities or devices, or any combination thereof.

Section 83. Subsection (1) of section 717.106, Florida Statutes, are amended to read:

717.106 Bank deposits and funds in financial organizations.—

(1) Any demand, savings, or matured time deposit with a banking or financial organization, including deposits that are automatically renewable, and any funds paid toward the purchase of shares, a mutual investment certificate, or any other interest in a banking or financial organization is presumed unclaimed unless the owner has, within 5 years:

(a) Increased or decreased the amount of the deposit or presented the passbook or other similar evidence of the deposit for the crediting of interest;

(b) Communicated in writing or by telephone with the banking or financial organization concerning the property;

(c) Otherwise indicated an interest in the property as evidenced by a memorandum or other record on file with the banking or financial organization;

(d) Owned other property to which paragraph (a), paragraph (b), or paragraph (c) is applicable and if the banking or financial organization communicates in writing with the owner with regard to the property that would otherwise be presumed unclaimed under this subsection at the address to which communications regarding the other property regularly are sent; or

(e) Had another relationship with the banking or financial organization concerning which the owner has:

1. Communicated in writing with the banking or financial organization; or

2. Otherwise indicated an interest as evidenced by a memorandum or other record on file with the banking or financial organization and if the banking or financial organization communicates in writing with the owner with regard to the property that would otherwise be unclaimed under this subsection at the address to which communications regarding the other relationship regularly are sent; ~~or~~

~~(f) Received first class mail from the banking or financial organization or a subsidiary of such banking or financial organization, which was not returned as undeliverable, in the ordinary course of business at the address reflected in the banking or financial organization’s records.~~

Section 84. Subsection (1) of section 717.107, Florida Statutes, is amended to read:

717.107 Funds owing under life insurance policies.—

(1) Funds held or owing under any life or endowment insurance policy or annuity contract which has matured or terminated are presumed unclaimed if unclaimed for more than 5 years after the funds became due and payable as established from the records of the insurance company holding or owing the funds, but property described in paragraph (3)(b) is presumed unclaimed if such property is not claimed for more than 2 years. *The amount presumed unclaimed shall include any amount due and payable under s. 627.4615.*

Section 85. Section 717.109, Florida Statutes, is amended to read:

717.109 Refunds held by business associations.—~~Except as to the extent otherwise provided ordered by law the court or administrative~~

~~agency, any sum that a business association has been ordered to refund by a court or administrative agency which has been unclaimed by the owner for more than 1 year after it became payable in accordance with the final determination or order providing for the refund, regardless of whether the final determination or order requires any person entitled to a refund to make a claim for it, is presumed unclaimed.~~

Section 86. Section 717.116, Florida Statutes, is amended to read:

717.116 Contents of safe-deposit box or other safekeeping repository.—All tangible and intangible property held by a banking or financial organization in a safe-deposit box or any other safekeeping repository in this state in the ordinary course of the holder’s business, and proceeds resulting from the sale of the property permitted by law, that has not been claimed by the owner for more than 3 years after the lease or rental period on the box or other repository has expired are presumed unclaimed.

Section 87. Subsections (1), (3), (4), and (7) of section 717.117, Florida Statutes, are amended to read:

717.117 Report of unclaimed property.—

(1) Every person holding funds or other property, tangible or intangible, presumed unclaimed and subject to custody as unclaimed property under this chapter shall report to the department on such forms as the department may prescribe by rule. In lieu of forms, *a report identifying 25 or more different apparent owners must be submitted by the holder* ~~may submit the required information~~ via electronic medium as the department may prescribe by rule. The report must include:

(a) Except for traveler’s checks and money orders, the name, social security number or taxpayer identification number, and date of birth, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property which is presumed unclaimed and which has a value of \$50 or more.

(b) For unclaimed funds which have a value of \$50 or more held or owing under any life or endowment insurance policy or annuity contract, the full name, taxpayer identification number or social security number, date of birth, if known, and last known address of the insured or annuitant and of the beneficiary according to records of the insurance company holding or owing the funds.

(c) For all tangible property held in a safe-deposit box or other safekeeping repository, a description of the property and the place where the property is held and may be inspected by the department, and any amounts owing to the holder. Contents of a safe-deposit box or other safekeeping repository which consist of documents or writings of a private nature and which have little or no apparent value shall not be presumed unclaimed.

(d) The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due. Items of value under \$50 each may be reported in the aggregate.

(e) The date the property became payable, demandable, or returnable, and the date of the last transaction with the apparent owner with respect to the property.

(f) Any person or business association or public corporation entity holding funds presumed unclaimed and having a total value of \$10 or less may file a zero balance report for that reporting period. The balance brought forward to the new reporting period is zero.

(g) Such other information as the department may prescribe by rule as necessary for the administration of this chapter.

(h) Credit balances, customer overpayments, security deposits, and refunds having a value of less than \$10 shall not be presumed unclaimed.

(3) The report must be filed before May 1 of each year. Such report shall apply to the preceding calendar year. ~~If such report is not filed on or before the applicable filing date, the holder shall pay to the department may impose and collect a penalty of \$10 per day up to a maximum of for each day the report is delinquent, but such penalty shall not exceed \$500 for the failure to timely report or the failure to include in a report information required by this chapter. The penalty shall be remitted to the~~

department within 30 days after the date of the notification to the holder that the penalty is due and owing. As necessary for proper administration of this chapter, the department may waive any penalty due with appropriate justification. On written request by any person required to file a report and upon a showing of good cause, the department may postpone the reporting date. The department must provide information contained in a report filed with the department to any person requesting a copy of the report or information contained in a report, to the extent the information requested is not confidential, within 90 days after the report has been processed and added to the unclaimed property data base subsequent to a determination that the report is accurate and that the reported property is the same as the remitted property.

(4) Holders of inactive accounts having a value of \$50 or more shall use due diligence to locate apparent owners.

(a) When an owner's account becomes inactive, the holder shall conduct at least one search for the apparent owner using due diligence. For purposes of this section, ~~except for banks, credit unions, and state or federal savings associations,~~ an account is inactive if 2 years have transpired after the last owner-initiated account activity, if 2 years have transpired after the expiration date on the instrument or contract, or if 2 years have transpired since first-class mail has been returned as undeliverable. ~~With respect to banks, credit unions, and state or federal savings associations, an account is inactive if 2 years have transpired after the last owner initiated account activity and first class mail has been returned as undeliverable or 2 years after the expiration date on the instrument or contract and first class mail has been returned as undeliverable.~~

(b)1- Within 180 days after an account becomes inactive, the holder shall conduct a search to locate the apparent owner of the property. The holder may satisfy such requirement by conducting one annual search for the owners of all accounts which have become inactive during the prior year.

(c)2- Within 30 days after receiving updated address information, the holder shall provide notice by telephone or first-class mail to the current address notifying the apparent owner that the holder is in possession of property which is presumed unclaimed and may be remitted to the department. The notice shall also provide the apparent owner with the address or the telephone number of an office where the apparent owner may claim the property or reestablish the inactive account.

(d) The account shall be presumed unclaimed if the holder is not able to contact the apparent owner by telephone, the first-class mail notice is returned to the holder as undeliverable, or the apparent owner does not contact the holder in response to the first-class mail notice.

~~(b) The claim of the apparent owner is not barred by the statute of limitations.~~

(7)(a) This section does ~~shall~~ not apply to the unclaimed patronage refunds as provided for by contract or through bylaw provisions of entities organized under chapter 425.

(b) This section does not apply to intangible property held, issued, or owing by a business association subject to the jurisdiction of the United States Surface Transportation Board or its successor federal agency if the apparent owner of such intangible property is a business association. The holder of such property does not have any obligation to report, to pay, or to deliver such property to the department.

Section 88. Section 717.118, Florida Statutes, is amended to read:

717.118 Notification of apparent owners ~~Notice and publication of lists of unclaimed property.—~~

(1) It is specifically recognized that the state has an obligation to make an effort to notify owners of unclaimed property in a cost-effective manner. In order to provide all the citizens of this state an effective and efficient program for the recovery of unclaimed property, the department shall use cost-effective means to make at least one active attempt to notify owners of unclaimed property accounts valued at more than \$100 with a reported address or taxpayer identification number ~~the existence of unclaimed property held by the department.~~ Such active attempt to notify ~~locate~~ apparent owners shall include any attempt by the department to directly contact the owner. Other means of notification, such as publication of the names of owners in the newspaper, on television, on

the Internet, or through other promotional efforts and items in which the department does not directly attempt to contact the owner are expressly declared to be passive attempts. Nothing in this subsection precludes other agencies or entities of state government from notifying owners of the existence of unclaimed property or attempting to ~~notify locate~~ apparent owners of unclaimed property.

~~(2) The following notification requirements shall apply:~~

~~(a) Notifications that are published or televised may consist of the names of apparent owners of unclaimed property, and information regarding recovery of unclaimed property from the department. Such notification may be televised or published in the county in which the last known address of the apparent owner is located or, if the address is unknown, in the county in which the holder has its principal place of business. Published notifications may be in accordance with s. 50.011.~~

~~(b) Notification provided directly to individual apparent owners shall consist of a description of the property and information regarding recovery of unclaimed property from the department.~~

~~(3) The department may publish in the notice any items of more than \$100.~~

~~(3)(4) This section is not applicable to sums payable on traveler's checks, money orders, and other written instruments presumed unclaimed under s. 717.104.~~

Section 89. Subsection (5) of section 717.119, Florida Statutes, is amended to read:

717.119 Payment or delivery of unclaimed property.—

(5) All intangible and tangible property held in a safe-deposit box or any other safekeeping repository reported under s. 717.117 shall not be delivered to the department until 120 days after the report due date. *The delivery of the property, through the United States mail or any other carrier, shall be insured by the holder at an amount equal to the estimated value of the property. Each package shall be clearly marked on the outside "Deliver Unopened." A holder's safe-deposit box contents shall be delivered to the department in a single shipment. In lieu of a single shipment, holders may provide the department with a single detailed shipping schedule that includes package tracking information for all packages being sent pursuant to this section.*

(a) Holders may remit the value of cash and coins found in unclaimed safe-deposit boxes to the department by cashier's check or by electronic funds transfer, unless the cash or coins have a value above face value. The department shall identify by rule those cash and coin items having a numismatic value. Cash and coin items identified as having a numismatic value shall be remitted to the department in their original form.

(b) Any firearm or ammunition found in an unclaimed safe-deposit box or any other safekeeping repository shall be delivered by the holder to a law enforcement agency for disposal. However, the department is authorized to make a reasonable attempt to ascertain the historical value to collectors of any firearm that has been delivered to the department. Any firearm appearing to have historical value to collectors may be sold by the department pursuant to s. 717.122 to a person having a federal firearms license. Any firearm which is not sold pursuant to s. 717.122 shall be delivered by the department to a law enforcement agency in this state for disposal. The department shall not be administratively, civilly, or criminally liable for any firearm delivered by the department to a law enforcement agency in this state for disposal.

(c) If such property is not paid or delivered to the department on or before the applicable payment or delivery date, the holder shall pay to the department a penalty of ~~\$10~~ for each safe-deposit box shipment received late, ~~but such penalty shall not exceed \$1,000.~~ *The penalty shall be \$100 for a safe-deposit box shipment container that is late 30 days or less. Thereafter, the penalty shall be \$500 for a safe-deposit box shipment container that is late for each additional successive 30-day period. The penalty assessed against a holder for a late safe-deposit box shipment container shall not exceed \$4,000 annually. The penalty shall be remitted to the department within 30 days after the date of the notification to the holder that the penalty is due and owing.*

(d) The department may waive any penalty due with appropriate justification, as provided by rule.

~~(c) Upon written request by any person required to deliver safe-deposit box contents, the department may postpone the delivery.~~

Section 90. Subsection (2) of section 717.1201, Florida Statutes, is amended to read:

717.1201 Custody by state; holder relieved from liability; reimbursement of holder paying claim; reclaiming for owner; defense of holder; payment of safe-deposit box or repository charges.—

(2) Any holder who has paid money to the department pursuant to this chapter may make payment to any person appearing to the holder to be entitled to payment and, upon filing proof of payment and proof that the payee is was entitled thereto, the department shall forthwith repay reimburse the holder for the payment without deduction of any fee or other charges. If repayment reimbursement is sought for a payment made on a negotiable instrument, including a traveler's check or money order, the holder must be repaid reimbursed under this subsection upon filing proof that the instrument was duly presented and that the payee is payment was made to a person who appeared to the holder to be entitled to payment. The holder shall be repaid reimbursed for payment made under this subsection even if the payment was made to a person whose claim was barred under s. 717.129(1).

Section 91. Subsections (1) and (3) of section 717.122, Florida Statutes, are amended, and subsection (5) is added to that section, to read:

717.122 Public sale of unclaimed property.—

(1) Except as provided in subsection (2), the department after the receipt of unclaimed property shall sell it to the highest bidder at public sale on the Internet or at a specified physical location wherever in the judgment of the department the most favorable market for the property involved exists. The department may decline the highest bid and reoffer the property for sale if in the judgment of the department the bid is insufficient. The department shall have the discretion to withhold from sale any unclaimed property that the department deems to be of benefit to the people of the state. If in the judgment of the department the probable cost of sale exceeds the value of the property, it need not be offered for sale and may be disposed of as the department determines appropriate. Any sale at a specified physical location held under this section must be preceded by a single publication of notice, at least 3 weeks in advance of sale, in a newspaper of general circulation in the county in which the property is to be sold. *The department shall proportionately deduct auction fees, preparation costs, and expenses from the amount posted to the owner's account when safe-deposit box contents are sold. No action or proceeding may be maintained against the department for or on account of any decision to decline the highest bid or withhold any unclaimed property from sale.*

(3) Unless the department deems it to be in the public interest to do otherwise, all securities presumed unclaimed and delivered to the department may be sold upon receipt. Any person making a claim pursuant to this chapter is entitled to receive either the securities delivered to the department by the holder, if they still remain in the hands of the department, or the proceeds received from sale, ~~less any amounts deducted pursuant to subsection (2)~~, but no person has any claim under this chapter against the state, the holder, any transfer agent, any registrar, or any other person acting for or on behalf of a holder for any appreciation in the value of the property occurring after delivery by the holder to the state.

(5) *The sale of unclaimed tangible personal property is not subject to tax under chapter 212 when such property is sold by or on behalf of the department pursuant to this section.*

Section 92. Subsection (1) of section 717.123, Florida Statutes, is amended to read:

717.123 Deposit of funds.—

(1) All funds received under this chapter, including the proceeds from the sale of unclaimed property under s. 717.122, shall forthwith be deposited by the department in the Unclaimed Property Trust Fund. The department shall retain, from funds received under this chapter, an amount not exceeding \$15 \$8 million from which the department shall make prompt payment of claims allowed by the department and shall pay the costs incurred by the department in administering and enforcing

this chapter. All remaining funds received by the department under this chapter shall be deposited by the department into the State School Fund.

Section 93. Section 717.124, Florida Statutes, is amended to read:

717.124 *Unclaimed property claims Filing of claim with department.—*

(1) Any person, excluding another state, claiming an interest in any property paid or delivered to the department under this chapter may file with the department a claim on a form prescribed by the department and verified by the claimant or the claimant's representative. *The claimant's representative must be an attorney licensed to practice law in this state, a licensed Florida-certified public accountant, or a private investigator licensed under chapter 493. The claimant's representative must be registered with the department under this chapter. The claimant, or the claimant's representative, shall provide the department with a legible copy of a valid driver's license of the claimant at the time the original claim form is filed. If the claimant has not been issued a valid driver's license at the time the original claim form is filed, the department shall be provided with a legible copy of a photographic identification of the claimant issued by the United States or a foreign nation, a state or territory of the United States or foreign nation, or a political subdivision or agency thereof. In lieu of photographic identification, a notarized sworn statement by the claimant may be provided which affirms the claimant's identity and states the claimant's full name and address. Any claim filed without the required identification or the sworn statement with the original claim form and the original power of attorney, if applicable, is void.*

(a) *Within 90 days after receipt of a claim, the department may return any claim that provides for the receipt of fees and costs greater than that permitted under this chapter or that contains any apparent errors or omissions. The department may also request that the claimant or the claimant's representative provide additional information. The department shall retain a copy or electronic image of the claim.*

(b) *A claimant or the claimant's representative shall be deemed to have withdrawn a claim if no response to the department's request for additional information is received by the department within 60 days after the notification of any apparent errors or omissions.*

(c) *Within 90 days after receipt of the claim, or the response of the claimant or the claimant's representative to the department's request for additional information, whichever is later, the department shall determine each claim within 90 days after it is filed. Such determination shall contain a notice of rights provided by ss. 120.569 and 120.57. The 90-day period shall be extended by 60 days if the department has good cause to need additional time or if the unclaimed property:*

1. *Is owned by a person who has been a debtor in bankruptcy;*
2. *Was reported with an address outside of the United States;*
3. *Is being claimed by a person outside of the United States; or*
4. *Contains documents filed in support of the claim that are not in the English language and have not been accompanied by an English language translation.*

(d) *The department shall deny any claim under which the claimant's representative has refused to authorize the department to reduce the fees and costs to the maximum permitted under this chapter.*

(2) A claim for a cashier's check or a stock certificate without the original instrument may require an indemnity bond equal to the value of the claim to be provided prior to issue of the stock or payment of the claim by the department.

(3) The department may require an affidavit swearing to the authenticity of the claim, lack of documentation, and an agreement to allow the department to provide the name and address of the claimant to subsequent claimants coming forward with substantiated proof to claim the account. This shall apply to claims equal to or less than \$250. *The exclusive remedy of a subsequent claimant to the property shall be against the person who received the property from the department.*

(4)(a) *Except as otherwise provided in this chapter, if a claim is determined in favor of the claimant, the department shall deliver or pay over to the claimant the property or the amount the department actually*

received or the proceeds if it has been sold by the department, together with any additional amount required by s. 717.121.

(b)(5)(a) If an owner authorizes an attorney licensed to practice law in this state, Florida-certified public accountant, or private investigator licensed under chapter 493, and registered with the department under this chapter, investigative agency which is duly licensed to do business in this state to claim the unclaimed property on the owner's behalf, the department is authorized to make distribution of the property or money in accordance with such power of attorney. The original power of attorney must be executed by the owner and must be filed with the department.

(c)(b)1. Payments of approved claims for unclaimed cash accounts shall be made to the owner after deducting any fees and costs authorized pursuant to a written power of attorney. The contents of a safe-deposit box shall be delivered directly to the claimant notwithstanding any agreement to the contrary.

2. Payments of fees and costs authorized pursuant to a written power of attorney for approved cash claims shall be made or issued forwarded to the law firm employer of the designated attorney licensed to practice law in this state, the public accountancy firm employer of the licensed Florida-certified public accountant, or the designated employing private investigative agency licensed by this state. Such payments shall may be made by electronic funds transfer and may be made on such periodic schedule as the department may define by rule, provided the payment intervals do not exceed 31 days. Payment made to an attorney licensed in this state, a Florida-certified public accountant, or a private investigator licensed under chapter 493, operating individually or as a sole practitioner, shall be to the attorney, certified public accountant, or private investigator.

~~3. Payments of approved claims for unclaimed securities and other intangible ownership interests made to an attorney, Florida-certified public accountant, or private investigative agency shall be promptly deposited into a trust or escrow account which is regularly maintained by the attorney, Florida-certified public accountant, or the private investigative agency in a financial institution authorized to accept such deposits and located in this state.~~

~~(e) Distribution of unclaimed property by the attorney, Florida-certified public accountant, or private investigative agency to the claimant shall be made within 10 days following final credit of the deposit into the trust or escrow account at the financial institution, unless a party to the agreement protests in writing such distribution before it is made.~~

(5)(6) The department shall not be administratively, civilly, or criminally liable for any property or funds distributed pursuant to this section, provided such distribution is made in good faith.

(6) This section does not supersede the licensing requirements of chapter 493.

Section 94. Section 717.12403, Florida Statutes, is created to read:

717.12403 Unclaimed demand, savings, or checking account in a financial institution held in the name of more than one person.—

(1)(a) If an unclaimed demand, savings, or checking account in a financial institution is reported as an "and" account in the name of two or more persons who are not beneficiaries, it is presumed that each person must claim the account in order for the claim to be approved by the department. This presumption may be rebutted by showing that entitlement to the account has been transferred to another person or by clear and convincing evidence demonstrating that the account should have been reported by the financial institution as an "or" account.

(b) If an unclaimed demand, savings, or checking account in a financial institution is reported as an "and" account and one of the persons on the account is deceased, it is presumed that the account is a survivorship account. This presumption may be rebutted by showing that entitlement to the account has been transferred to another person or by clear and convincing evidence demonstrating that the account is not a survivorship account.

(2) If an unclaimed demand, savings, or checking account in a financial institution is reported as an "or" account in the name of two or more persons who are not beneficiaries, it is presumed that either person listed on the account may claim the entire amount held in the account. This

presumption may be rebutted by showing that entitlement to the account has been transferred to another person or by clear and convincing evidence demonstrating that the account should have been reported by the financial institution as an "and" account.

(3) If an unclaimed demand, savings, or checking account in a financial institution is reported in the name of two or more persons who are not beneficiaries without identifying whether the account is an "and" account or an "or" account, it is presumed that the account is an "or" account. This presumption may be rebutted by showing that entitlement to the account has been transferred to another person or by clear and convincing evidence demonstrating that the account should have been reported by the financial institution as an "and" account.

(4) The department shall be deemed to have made a distribution in good faith if the department remits funds consistent with this section.

Section 95. Section 717.12404, Florida Statutes, is created to read:

717.12404 Claims on behalf of a business entity or trust.—

(1) Claims on behalf of an active or dissolved corporation, for which the last annual report is not available from the Department of State through the Internet, must be accompanied by a microfiche copy of the records on file with the Department of State or, if the corporation has not made a corporate filing with the Department of State, an authenticated copy of the last corporate filing identifying the officers and directors from the appropriate authorized official of the state of incorporation. A claim on behalf of a corporation must be made by an officer or director identified on the last corporate filing.

(2) Claims on behalf of a dissolved corporation, a business entity other than an active corporation, or a trust must include a legible copy of a valid driver's license of the person acting on behalf of the dissolved corporation, business entity other than an active corporation, or trust. If the person has not been issued a valid driver's license, the department shall be provided with a legible copy of a photographic identification of the person issued by the United States or a foreign nation, or a political subdivision or agency thereof. In lieu of photographic identification, a notarized sworn statement by the person may be provided which affirms the person's identity and states the person's full name and address. Any claim filed without the required identification or the sworn statement with the original claim form and the original power of attorney, if applicable, is void.

Section 96. Section 717.12405, Florida Statutes, is created to read:

717.12405 Claims by estates.—An estate or any person representing an estate or acting on behalf of an estate may claim unclaimed property only after the heir or legatee of the decedent entitled to the property has been located. Any estate, or any person representing an estate or acting on behalf of an estate, that receives unclaimed property before the heir or legatee of the decedent entitled to the property has been located, is personally liable for the unclaimed property and must immediately return the full amount of the unclaimed property or the value thereof to the department in accordance with s. 717.1341.

Section 97. Subsection (1) of section 717.1241, Florida Statutes, is amended, and subsection (3) is added to said section, to read:

717.1241 Conflicting claims.—

(1) When ownership has been established but conflicting claims have been received by the department, the property shall be remitted as follows, notwithstanding the withdrawal of a claim to the:

(a) As between an owner and an owner's representative:

1. To the person submitting the first claim that is complete or made complete received by the department; or

2. If an owner's claim and an owner's representative's claim are received by the department on the same day and both claims are complete, to the owner;

(b) As between two or more owner's representatives, to the owner's representative who has submitted the first claim that is complete or made complete. ~~Owner if an owner's claim and an owner's representative's claim are received by the department on the same day; or~~

(c) *As between two or more owner's representatives whose claims were complete on the same day, to the owner's representative who has agreed to receive the lowest fee. If two or more owner's representatives whose claims were complete on the same day are charging the same lowest fee, the fees shall be divided equally between the owner's representatives.* ~~Owner's representative who has the earliest dated contract with the owner if claims by two or more owner's representatives are received by the department on the same day.~~

(3) *A claim is complete when entitlement to the unclaimed property has been established.*

Section 98. Subsection (1) of section 717.1242, Florida Statutes, is amended to read:

717.1242 *Restatement of jurisdiction of the circuit court sitting in probate and the department.—*

(1) It is and has been the intent of the Legislature that, pursuant to s. 26.012(2)(b), circuit courts have jurisdiction of proceedings relating to the settlement of the estates of decedents and other jurisdiction usually pertaining to courts of probate. It is and has been the intent of the Legislature that, pursuant to s. 717.124, the department determines the merits of claims for property paid or delivered to the department under this chapter. Consistent with this legislative intent, any estate or beneficiary, as defined in s. 731.201, heir of an estate seeking to obtain property paid or delivered to the department under this chapter must file a claim with the department as provided in s. 717.124.

Section 99. Section 717.1244, Florida Statutes, is created to read:

717.1244 *Determinations of unclaimed property claims.—In rendering a determination regarding the merits of an unclaimed property claim, the department shall rely on the applicable statutory, regulatory, common, and case law. Agency statements applying the statutory, regulatory, common, and case law to unclaimed property claims are not agency statements subject to s. 120.56(4).*

Section 100. Section 717.126, Florida Statutes, is amended to read:

717.126 *Administrative hearing; burden of proof; proof of entitlement; venue.—*

(1) Any person aggrieved by a decision of the department may petition for a hearing as provided in ss. 120.569 and 120.57. In any proceeding for determination of a claim to property paid or delivered to the department under this chapter, the burden shall be upon the claimant to establish entitlement to the property by a preponderance of evidence. *Having the same name as that reported to the department is not sufficient, in the absence of other evidence, to prove entitlement to unclaimed property.*

(2) *Unless otherwise agreed by the parties, venue shall be in Tallahassee, Leon County, Florida. However, upon the request of a party, the presiding officer may, in the presiding officer's discretion, conduct the hearing at an alternative remote video location.*

Section 101. Section 717.1261, Florida Statutes, is created to read:

717.1261 *Death certificates.—Any person who claims entitlement to unclaimed property by means of the death of one or more persons shall file a copy of the death certificate of the decedent or decedents that has been certified as being authentic by the issuing governmental agency.*

Section 102. Section 717.1262, Florida Statutes, is created to read:

717.1262 *Court documents.—Any person who claims entitlement to unclaimed property by reason of a court document shall file a certified copy of the court document with the department.*

Section 103. Subsections (1) and (6) of section 717.1301, Florida Statutes, are amended to read:

717.1301 *Investigations; examinations; subpoenas.—*

(1) The department may make investigations and examinations *within or outside this state of claims, reports, and other records within or outside this state* as it deems necessary to administer and enforce the provisions of this chapter. In such investigations and examinations the department may administer oaths, examine witnesses, issue subpoenas,

and otherwise gather evidence. The department may request any person who has not filed a report under s. 717.117 to file a verified report stating whether or not the person is holding any unclaimed property reportable or deliverable under this chapter.

(6) If an investigation or an examination of the records of any person results in the disclosure of property reportable and deliverable under this chapter, the department may assess the cost of investigation or the examination against the holder at the rate of \$100 per 8-hour day for each per investigator or examiner. *Such fee shall be calculated on an hourly basis and shall be rounded to the nearest hour. The person shall also pay the travel expense and per diem subsistence allowance provided for state employees in s. 112.061. The person shall not be required to pay a per diem fee and expenses of an examination or investigation which shall consume more than 30 worker-days in any one year unless such examination or investigation is due to fraudulent practices of the person, in which case such person shall be required to pay the entire cost regardless of time consumed. The fee shall be remitted to the department within 30 days after the date of the notification that the fee is due and owing. Any person who fails to pay the fee within 30 days after the date of the notification that the fee is due and owing shall pay to the department interest at the rate of 12 percent per annum on such fee from the date of the notification.*

Section 104. Subsection (2) of section 717.1315, Florida Statutes, is amended to read:

717.1315 *Retention of records by owner's representative.—*

(2) An owner's representative, operating at two or more places of business in this state, may maintain the books, accounts, and records of all such offices at any one of such offices, or at any other office maintained by such owner's representative, upon the filing of a written notice with the department designating in the written notice the office at which such records are maintained.

(3) ~~An~~ *However, the* owner's representative shall make all books, accounts, and records available at a convenient location in this state upon request of the department.

Section 105. Subsection (2) of section 717.132, Florida Statutes, is amended to read:

717.132 *Enforcement; cease and desist orders; administrative fines.—*

(2) In addition to any other powers conferred upon it to enforce and administer the provisions of this chapter, the department may issue and serve upon a person an order to cease and desist and to take corrective action whenever the department finds that such person is violating, has violated, or is about to violate any provision of this chapter, any rule or order promulgated under this chapter, or any written agreement entered into with the department. *For purposes of this subsection, the term "corrective action" includes refunding excessive charges, requiring a person to return unclaimed property, requiring a holder to remit unclaimed property, and requiring a holder to correct a report that contains errors or omissions.* Any such order shall contain a notice of rights provided by ss. 120.569 and 120.57.

Section 106. Section 717.1322, Florida Statutes, is created to read:

717.1322 *Administrative enforcement.—*

(1) *The following acts are violations of this chapter and constitute grounds for an administrative enforcement action by the department in accordance with the requirements of chapter 120:*

(a) *Failure to comply with any provision of this chapter, any rule or order adopted under this chapter, or any written agreement entered into with the department.*

(b) *Fraud, misrepresentation, deceit, or gross negligence in any matter within the scope of this chapter.*

(c) *Fraudulent misrepresentation, circumvention, or concealment of any matter required to be stated or furnished to an owner or apparent owner under this chapter, regardless of reliance by or damage to the owner or apparent owner.*

(d) Willful imposition of illegal or excessive charges in any unclaimed property transaction.

(e) False, deceptive, or misleading solicitation or advertising within the scope of this chapter.

(f) Failure to maintain, preserve, and keep available for examination all books, accounts, or other documents required by this chapter, by any rule or order adopted under this chapter, or by any agreement entered into with the department under this chapter.

(g) Refusal to permit inspection of books and records in an investigation or examination by the department or refusal to comply with a subpoena issued by the department under this chapter.

(h) Criminal conduct in the course of a person's business.

(i) Failure to timely pay any fine imposed or assessed under this chapter or any rule adopted under this chapter.

(j) For compensation or gain or in the expectation of compensation or gain, the filing of a claim for unclaimed property owned by another unless such person is a registered attorney licensed to practice law in this state, registered public accountant certified in this state, or a registered private investigator licensed under chapter 493. This subsection does not apply to a person who has been granted a durable power of attorney to convey and receive all of the real and personal property of the owner, is the court-appointed guardian of the owner, has been employed as an attorney or qualified representative to contest the department's denial of a claim, has been employed as an attorney or qualified representative to contest the department's denial of a claim, or has been employed as an attorney to probate the estate of the owner or an heir or legatee of the owner.

(k) Failure to authorize the release of records in the possession of a third party after being requested to do so by the department regarding a pending examination or investigation.

(l) Receipt or solicitation of consideration to be paid in advance of the approval of a claim under this chapter.

(2) Upon a finding by the department that any person has committed any of the acts set forth in subsection (1), the department may enter an order:

(a) Revoking or suspending a registration previously granted under this chapter;

(b) Placing a registrant or an applicant for a registration on probation for a period of time and subject to such conditions as the department may specify;

(c) Placing permanent restrictions or conditions upon issuance or maintenance of a registration under this chapter;

(d) Issuing a reprimand;

(e) Imposing an administrative fine not to exceed \$2,000 for each such act; or

(f) Prohibiting any person from being a director, officer, agent, employee, or ultimate equitable owner of a 10-percent or greater interest in an employer of a registrant.

(3) A registrant is subject to the disciplinary actions specified in subsection (2) for violations of subsection (1) by an agent or employee of the registrant's employer if the registrant knew or should have known that such agent or employee was violating any provision of this chapter.

(4)(a) The department shall adopt, by rule, and periodically review the disciplinary guidelines applicable to each ground for disciplinary action which may be imposed by the department under this chapter.

(b) The disciplinary guidelines shall specify a meaningful range of designated penalties based upon the severity or repetition of specific offenses, or both. It is the legislative intent that minor violations be distinguished from more serious violations; that such guidelines consider the amount of the claim involved, the complexity of locating the owner, the steps taken to ensure the accuracy of the claim by the person filing the claim, the acts of commission and omission of the ultimate owners in

establishing themselves as rightful owners of the funds, the acts of commission or omission of the agent or employee of an employer in the filing of the claim, the actual knowledge of the agent, employee, employer, or owner in the filing of the claim, the departure, if any, by the agent or employee from the internal controls and procedures established by the employer with regard to the filing of a claim, the number of defective claims previously filed by the agent, employee, employer, or owner; that such guidelines provide reasonable and meaningful notice of likely penalties that may be imposed for proscribed conduct; and that such penalties be consistently applied by the department.

(c) A specific finding of mitigating or aggravating circumstances shall allow the department to impose a penalty other than that provided for in such guidelines. The department shall adopt by rule disciplinary guidelines to designate possible mitigating and aggravating circumstances and the variation and range of penalties permitted for such circumstances. Such mitigating and aggravating circumstances shall also provide for consideration of, and be consistent with, the legislative intent expressed in paragraph (b).

(d) In any proceeding brought under this chapter, the administrative law judge, in recommending penalties in any recommended order, shall follow the penalty guidelines established by the department and shall state in writing any mitigating or aggravating circumstances upon which the recommended penalty is based.

(5) The department may seek any appropriate civil legal remedy available to it by filing a civil action in a court of competent jurisdiction against any person who has, directly or through an owner's representative, wrongfully submitted a claim as the ultimate owner of property and improperly received funds from the department in violation of this chapter.

Section 107. Section 717.1331, Florida Statutes, is created to read:

717.1331 *Actions against holders.*—The department may initiate, or cause to be initiated, an action against a holder to recover unclaimed property. If the department prevails in a civil or administrative action to recover unclaimed property initiated by or on behalf of the department, the holder shall be ordered to pay the department reasonable costs and attorney's fees.

Section 108. Section 717.1333, Florida Statutes, is created to read:

717.1333 *Evidence; audit reports; examiner's worksheets, investigative reports, other related documents.*—In any proceeding involving a holder under ss. 120.569 and 120.57 in which an auditor, examiner, or investigator acting under authority of this chapter is available for cross-examination, any official written report, worksheet, or other related paper, or copy thereof, compiled, prepared, drafted, or otherwise made or received by the auditor, examiner, or investigator, after being duly authenticated by the auditor, examiner, or investigator, may be admitted as competent evidence upon the oath of the auditor, examiner, or investigator that the report, worksheet, or related paper was prepared or received as a result of an audit, examination, or investigation of the books and records of the person audited, examined, or investigated, or the agent thereof.

Section 109. Subsection (5) is added to section 717.134, Florida Statutes, to read:

717.134 *Penalties and interest.*—

(5) The department may impose and collect a penalty of \$500 per day up to a maximum of \$5,000 and 25 percent of the value of property willfully not reported with all of the information required by this chapter. Upon a holder's showing of good cause, the department may waive the penalty or any portion thereof. If the holder acted in good faith and without negligence, the department shall waive the penalty provided herein.

Section 110. Section 717.1341, Florida Statutes, is created to read:

717.1341 *Invalid claims, recovery of property, interest and penalties.*—

(1)(a) No person shall receive unclaimed property that the person is not entitled to receive. Any person who receives, or assists another person to receive, unclaimed property that the person is not entitled to receive is

strictly, jointly, personally, and severally liable for the unclaimed property and shall immediately return the property, or the reasonable value of the property if the property has been damaged or disposed of, to the department plus interest at the rate set annually in accordance with s. 55.03(1). Assisting another person to receive unclaimed property includes executing a claim form on the person's behalf.

(b)1. In the case of stocks or bonds which have been sold, the proceeds from the sale shall be returned to the department plus any dividends or interest received thereon plus an amount equal to the brokerage fee plus interest at a rate set annually in accordance with s. 55.03(1) of the value of the proceeds from the sale of the stocks or bonds, the dividends or interest received, and the brokerage fee.

2. In the case of stocks or bonds which have not been sold, the stocks or bonds and any dividends or interest received thereon shall be returned to the department, together with interest on the dividends or interest received, at a rate set annually in accordance with s. 55.03(1) of the value of the property.

(2) The department may maintain a civil or administrative action:

(a) To recover unclaimed property that was paid or remitted to a person who was not entitled to the unclaimed property or to offset amounts owed to the department against amounts owed to an owner representative;

(b) Against a person who assists another person in receiving, or attempting to receive, unclaimed property that the person is not entitled to receive; or

(c) Against a person who attempts to receive unclaimed property that the person is not entitled to receive.

(3) If the department prevails in any proceeding under subsection (2), a fine not to exceed three times the value of the property received or sought to be received may be imposed on any person who knowingly, or with reckless disregard or deliberate ignorance of the truth, violated this section. If the department prevails in a civil or administrative proceeding under subsection (2), the person who violated subsection (1) shall be ordered to pay the department reasonable costs and attorney's fees.

(4) No person shall knowingly file, knowingly conspire to file, or knowingly assist in filing, a claim for unclaimed property the person is not entitled to receive. Any person who violates this subsection regarding unclaimed property of an aggregate value:

(a) Greater than \$50,000, is guilty of a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084;

(b) Greater than \$10,000 up to \$50,000, is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084;

(c) Greater than \$250 up to \$10,000, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084;

(d) Greater than \$50 up to \$250, is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083; or

(e) Up to \$50, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 111. Section 717.135, Florida Statutes, is amended to read:

717.135 Agreement to recover locate reported property in the custody of the department.—

(1) All agreements between a claimant's ~~an~~ owner's representative and a claimant ~~an~~ owner for compensation to recover or assist in the recovery of property reported to the department under s. 717.117 shall be in 11-point type or greater and either:

(a) Limit the fees and costs for services for each owner contract to \$25 for all contracts relating to unclaimed property with a dollar value below \$250. For all contracts relating to unclaimed property with a dollar value of \$250 and above, fees shall be limited to 20 15 percent per unclaimed on property account held by the department for 24 months or less and 25 percent on property held by the department for more than 24 months. Fees and costs for cash accounts shall be based on the value

of the property at the time the agreement for recovery is signed by the claimant ~~apparent~~ owner. Fees and costs for accounts containing securities or other intangible ownership interests, which securities or interests are not converted to cash, shall be based on the purchase price of the security as quoted on a national exchange or other market on which the property ~~ownership interest~~ is regularly traded at the time the securities or other ownership interest is remitted to the claimant ~~owner~~ or the claimant's ~~owner's~~ representative. Fees and costs for tangible property or safe-deposit box accounts shall be based on the value of the tangible property or contents of the safe-deposit box at the time the ownership interest is transferred or remitted to the claimant ~~owner~~ or the owner's representative; or

(b) Disclose, on such form as the department shall prescribe by rule, that the property is held by the Bureau of Unclaimed Property of the Department of Financial Services pursuant to this chapter, the person or name of the entity that held the property prior to the property becoming unclaimed, the date of the holder's last contact with the owner, if known, and the approximate value of the property, and identify which of the following categories of unclaimed property the owner's representative is seeking to recover, as reported by the holder:

1. Cash accounts.
2. Stale dated checks.
3. Life insurance or annuity contract assets.
4. Utility deposits.
5. Securities or other interests in business associations.
6. Wages.
7. Accounts receivable.
8. Contents of safe-deposit boxes.

Such disclosure shall be on a page signed and dated by the person asserting entitlement to the unclaimed property. However, paragraph (1)(a) or (b) ~~this section~~ shall not apply if probate proceedings must be initiated on behalf of the claimant for an estate that has never been probated ~~to~~ contracts made in connection with guardianship proceedings or the probate of an estate.

(2)(a) Agreements for recovery of cash accounts shall state the value of the unclaimed property, the unclaimed property account number, and the percentage ~~dollar~~ value of the unclaimed property account to be paid to the claimant ~~owner~~ and shall also state the percentage ~~dollar~~ value of compensation to be paid to the claimant's ~~owner's~~ representative.

(b) Agreements for recovery of accounts containing securities, safe-deposit box accounts, other intangible or tangible ownership interests, or other types of accounts, except cash accounts, shall state the unclaimed property account number, the number of shares of stock, if applicable, the approximate value of the unclaimed property, and the percentage value of compensation to be paid to the claimant's ~~owner's~~ representative.

(c) All disclosures and agreements shall include the name, address, and professional license number of the claimant's ~~owner's~~ representative, and, if available, the taxpayer identification number or social security number, address, and telephone number of the claimant ~~owner~~. The original of all such disclosures and agreements to pay compensation shall be signed and dated by the claimant ~~owner~~ of the property and shall be filed by the owner's representative with the claim form.

(d) All agreements between a claimant's representative and a claimant, who is a natural person, trust, or a dissolved corporation, for compensation to recover or assist in the recovery of property reported to the department under s. 717.117 must use the following form on 8 and 1/2 inch by 11 inch paper or on 8 and 1/2 inch by 14 inch paper with all of the text on one side of the paper and with the other side of the paper left blank; except that, at the option of the owner representative, the department disclosure form may be placed on the reverse side of the agreement. The agreement must be accurately completed and executed. No other writing or information shall be printed on the agreement. The title of the agreement shall be in bold 14-point type and underlined. The rest of the agreement shall be in 10-point type or greater. All unclaimed property

accounts claimed must be identified on the agreement. The agreement must state:

RECOVERY AGREEMENT

\$ _____ = APPROXIMATE DOLLAR VALUE OF UNCLAIMED PROPERTY

NUMBER OF SHARES OF STOCK TO BE RECOVERED (IF APPLICABLE): _____

PROPERTY ACCOUNT NUMBERS: _____

_____ PERCENT TO BE PAID AS COMPENSATION TO THE CLAIMANT'S REPRESENTATIVE

\$ _____ = NET AMOUNT TO BE PAID TO CLAIMANT

\$ _____ = AMOUNT TO BE PAID TO CLAIMANT'S REPRESENTATIVE

THIS AGREEMENT is between:

_____ (hereinafter, CLAIMANT)

and _____ (hereinafter, CLAIMANT'S REPRESENTATIVE)

who agree to the following:

(1) As consideration for the research efforts in locating and identifying assets due to the CLAIMANT and for assistance in procuring payment of the assets to the CLAIMANT, the CLAIMANT authorizes the government to pay to the CLAIMANT'S REPRESENTATIVE a fee of either:

- (a) _____ percent of all assets recovered, or
(b) A flat fee of \$ _____ to recover the unclaimed property account identified above.

NO FEES ARE TO BE PAID IN ADVANCE.

(2) I have read this agreement and in consideration thereof, do hereby grant the CLAIMANT'S REPRESENTATIVE a limited power of attorney to demand, collect, recover and receive the above compensation from the government in accordance with this agreement.

(3) IT IS HEREBY ACKNOWLEDGED BY ALL PARTIES TO THIS AGREEMENT THAT UNLESS THESE ASSETS ARE RECOVERED, NO FEES, NO COSTS OR CHARGES ARE DUE TO THE CLAIMANT'S REPRESENTATIVE, ITS AGENTS OR ATTORNEYS, AND THIS AGREEMENT WILL BECOME NULL AND VOID.

Original Signature of CLAIMANT: _____

DATE: _____

CLAIMANT'S Social Security Number or FEID number: _____

Make the CLAIMANT'S check payable to: _____

Mail check to this address: _____

The CLAIMANT'S telephone number is: _____

Original Signature of CLAIMANT'S REPRESENTATIVE: _____

FEID Number of CLAIMANT'S REPRESENTATIVE: _____

DATE: _____

Address of CLAIMANT'S REPRESENTATIVE: _____

Telephone number of CLAIMANT'S REPRESENTATIVE: _____

Professional license number of CLAIMANT'S REPRESENTATIVE: _____

(e) All fees, whether expressed as a percentage or as a flat fee, are subject to the limitations and requirements of subsection (1).

(3) As used in this section, "claimant" means the person on whose behalf a claim is filed.

(4) This section does not supersede the licensing requirements of chapter 493.

Section 112. Section 717.1351, Florida Statutes, is created to read:
717.1351 Acquisition of unclaimed property.—

(1) A person desiring to acquire ownership or entitlement of property reported to the department under s. 717.117 must be an attorney licensed to practice law in this state, a licensed Florida-certified public accountant, a private investigator licensed under chapter 493, or an employer of a licensed private investigator which employer possesses a Class "A" license under chapter 493 and must be registered with the department under this chapter.

(2) All contracts to acquire ownership or entitlement of unclaimed property from the person or persons entitled to the unclaimed property must be in 10-point type or greater and must:

(a) Have a purchase price that discounts the value of the unclaimed property at the time the agreement is executed by the seller at no greater than 20 percent per account held by the department; or

(b) Disclose, on such form as the department shall prescribe by rule, that the property is held by the Bureau of Unclaimed Property of the Department of Financial Services pursuant to this chapter, the person or name of the entity that held the property prior to the property becoming unclaimed, the date of the holder's last contact with the owner, if known, and the approximate value of the property, and identify which of the following categories of unclaimed property buyer is seeking to purchase as reported by the holder:

- 1. Cash accounts.
2. Stale dated checks.
3. Life insurance or annuity contract assets.
4. Utility deposits.
5. Securities or other interests in business associations.
6. Wages.
7. Accounts receivable.
8. Contents of safe-deposit boxes.

Such disclosure shall be on a page signed and dated by the seller of the unclaimed property.

(3) The originals of all such disclosures and agreements to transfer ownership or entitlement to unclaimed property shall be signed and dated by the seller and shall be filed with the claim form. The claimant shall provide the department with a legible copy of a valid driver's license of the seller at the time the original claim form is filed. If a seller has not been issued a valid driver's license at the time the original claim form is filed, the department shall be provided with a legible copy of a photographic identification of the seller issued by the United States or a foreign nation, a state or territory of the United States or foreign nation, or a political subdivision or agency thereof. In lieu of photographic identification, a notarized sworn statement by the seller may be provided which affirms the seller's identity and states the seller's full name and address. If a claim is filed without the required identification or the sworn statement with the original claim form and the original agreement to acquire ownership or entitlement to the unclaimed property, the claim is void.

(4) Any contract to acquire ownership or entitlement of unclaimed property from the person or persons entitled to the unclaimed property must provide for the purchase price to be remitted to the seller or sellers within 10 days after the execution of the contract by the seller or sellers. The contract must specify the unclaimed property account number, the value of the unclaimed property account, and the number of shares of stock, if applicable. Proof of payment by check must be filed with the department with the claim.

(5) All agreements to purchase unclaimed property from an owner, who is a natural person, a trust, or a dissolved corporation must use the

following form on 8 and 1/2 inch by 11 inch paper or on 8 and 1/2 inch by 14 inch paper with all of the text on one side of the paper and with the other side of the paper left blank; except that, at the option of the owner representative, the department disclosure form may be placed on the reverse side of the agreement. The agreement must be accurately completed and executed. No other writing or information shall be printed on the agreement. The title of the agreement shall be in bold 14-point type and underlined. The rest of the agreement shall be in 10-point type or greater. All unclaimed property accounts to be purchased must be identified on the agreement. The agreement must state:

PURCHASE AGREEMENT

\$ _____ = APPROXIMATE DOLLAR VALUE OF THE UNCLAIMED PROPERTY

PROPERTY ACCOUNT NUMBER(S): _____

NUMBER OF SHARES OF STOCK TO BE RECOVERED (IF APPLICABLE): _____

_____ PERCENT OF UNCLAIMED PROPERTY TO BE PAID TO THE BUYER

\$ _____ = NET AMOUNT TO BE PAID TO OWNER

\$ _____ = AMOUNT TO BE PAID TO BUYER

THIS AGREEMENT is between:

_____ (hereinafter, OWNER)

and _____ (hereinafter, BUYER)

who agree that the OWNER transfers to the BUYER for a purchase price of \$ _____ all rights to the above identified unclaimed property accounts.

Original Signature of OWNER: _____ DATE: _____

OWNER'S Social Security Number or FEID number: _____

Within 10 days after the execution of this Purchase Agreement by the Owner, Buyer shall remit the OWNER'S check payable to:

_____ Mail check to this address: _____

_____ The OWNER'S telephone number is: _____

Original Signature of BUYER: _____

FEID Number of BUYER: _____ DATE: _____

Address of BUYER: _____

Telephone number of BUYER: _____

Professional license number of BUYER: _____

(6) This section does not supersede the licensing requirements of chapter 493.

Section 113. Section 717.1400, Florida Statutes, is created to read:

717.1400 Registration.—

(1) In order to file claims as a claimant's representative, acquire ownership or entitlement to unclaimed property, receive a distribution of fees and costs from the department, and obtain unclaimed property dollar amounts, the number of reported shares of stock, and the last four digits of social security numbers held by the department, a private investigator holding a Class "C" individual license under chapter 493 must register with the department on such form as the department shall prescribe by rule, and verified by the applicant. To register with the department, a private investigator must provide:

(a) A legible copy of the applicant's Class "A" business license under chapter 493 or that of the applicant's employer which holds a Class "A" business license under chapter 493.

(b) A legible copy of the applicant's Class "C" individual license issued under chapter 493.

(c) The applicant's business address and telephone number.

(d) The names of agents or employees, if any, who are designated to act on behalf of the private investigator together with a legible copy of their photo-identification issued by an agency of the United States, or a state, or a political subdivision thereof.

(e) Sufficient information to enable the department to disburse funds by electronic funds transfer.

(f) The tax identification number of the private investigator's employer which holds a Class "A" business license under chapter 493.

(2) In order to file claims as a claimant's representative, acquire ownership or entitlement to unclaimed property, receive a distribution of fees and costs from the department, and obtain unclaimed property dollar amounts, the number of reported shares of stock, and the last four digits of social security numbers held by the department, a Florida-certified public accountant must register with the department on such form as the department shall prescribe by rule, and must be verified by the applicant. To register with the department a Florida-certified public accountant must provide:

(a) The applicant's Florida Board of Accountancy number.

(b) A legible copy of the applicant's current driver's license showing the full name and current address of such person. If a current driver's license is not available, another form of identification showing full name and current address of such person or persons shall be filed with the department.

(c) The applicant's business address and telephone number.

(d) The names of agents or employees, if any, who are designated to act on behalf of the Florida-certified public accountant together with a legible copy of their photo-identification issued by an agency of the United States, or a state, or a political subdivision thereof.

(e) Sufficient information to enable the department to disburse funds by electronic funds transfer.

(f) The tax identification number of the accountant's public accounting firm employer.

(3) In order to file claims as a claimant's representative, acquire ownership or entitlement to unclaimed property, receive a distribution of fees and costs from the department, and obtain unclaimed property dollar amounts, the number of reported shares of stock, and the last four digits of social security numbers held by the department, an attorney licensed to practice in this state must register with the department on such form as the department shall prescribe by rule, and must be verified by the applicant. To register with the department, such attorney must provide:

(a) The applicant's Florida Bar number.

(b) A legible copy of the applicant's current driver's license showing the full name and current address of such person. If a current driver's license is not available, another form of identification showing full name and current address of such person or persons shall be filed with the department.

(c) The applicant's business address and telephone number.

(d) The names of agents or employees, if any, who are designated to act on behalf of the attorney, together with a legible copy of their photo-identification issued by an agency of the United States, or a state, or a political subdivision thereof.

(e) Sufficient information to enable the department to disburse funds by electronic funds transfer.

(f) The tax identification number of the lawyer's employer law firm.

(4) Information and documents already on file with the department prior to the effective date of this provision need not be resubmitted in order to complete the registration.

(5) If a material change in the status of a registration occurs, a registrant must, within 30 days, provide the department with the updated documentation and information in writing. Material changes include, but are not limited to; a designated agent or employee ceasing to act on behalf of the designating person, a surrender, suspension, or revocation of a license, or a license renewal.

(a) If a designated agent or employee ceases to act on behalf of the person who has designated the agent or employee to act on such person's behalf, the designating person must, within 30 days, inform the Bureau of Unclaimed Property in writing of the termination of agency or employment.

(b) If a registrant surrenders the registrant's license or the license is suspended or revoked, the registrant must, within 30 days, inform the bureau in writing of the surrender, suspension, or revocation.

(c) If a private investigator's Class "C" individual license under chapter 493 or a private investigator's employer's Class "A" business license under chapter 493 is renewed, the private investigator must provide a copy of the renewed license to the department within 30 days after the receipt of the renewed license by the private investigator or the private investigator's employer.

(6) A registrant or applicant for registration may not have a name that might lead another person to conclude that the registrant is affiliated or associated with the United States, or an agency thereof, or a state or an agency or political subdivision of a state. The department shall deny an application for registration or revoke a registration if the applicant or registrant has a name that might lead another person to conclude that the applicant or registrant is affiliated or associated with the United States, or an agency thereof, or a state or an agency or political subdivision of a state. Names that might lead another person to conclude that the applicant or registrant is affiliated or associated with the United States, or an agency thereof, or a state or an agency or political subdivision of a state, include, but are not limited to, the words United States, Florida, state, bureau, division, department, or government.

Section 114. Subsection (2) of section 212.02, Florida Statutes, is amended to read:

212.02 Definitions.—The following terms and phrases when used in this chapter have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(2) "Business" means any activity engaged in by any person, or caused to be engaged in by him or her, with the object of private or public gain, benefit, or advantage, either direct or indirect. Except for the sales of any aircraft, boat, mobile home, or motor vehicle, the term "business" shall not be construed in this chapter to include occasional or isolated sales or transactions involving tangible personal property or services by a person who does not hold himself or herself out as engaged in business or sales of unclaimed tangible personal property under s. 717.122, but includes other charges for the sale or rental of tangible personal property, sales of services taxable under this chapter, sales of or charges of admission, communication services, all rentals and leases of living quarters, other than low-rent housing operated under chapter 421, sleeping or housekeeping accommodations in hotels, apartment houses, rooming-houses, tourist or trailer camps, and all rentals of or licenses in real property, other than low-rent housing operated under chapter 421, all leases or rentals of or licenses in parking lots or garages for motor vehicles, docking or storage spaces for boats in boat docks or marinas as defined in this chapter and made subject to a tax imposed by this chapter. The term "business" shall not be construed in this chapter to include the leasing, subleasing, or licensing of real property by one corporation to another if all of the stock of both such corporations is owned, directly or through one or more wholly owned subsidiaries, by a common parent corporation; the property was in use prior to July 1, 1989, title to the property was transferred after July 1, 1988, and before July 1, 1989, between members of an affiliated group, as defined in s. 1504(a) of the Internal Revenue Code of 1986, which group included both such corporations and there is no substantial change in the use of the property following the transfer of title; the leasing, subleasing, or licensing of the property was required by an unrelated lender as a condition of providing financing to one or more members of the affiliated group; and the corporation to which the property is leased, subleased, or licensed had sales subject to the tax imposed by this chapter of not less than \$667 million during the most recent 12-month period ended June 30. Any tax on such

sales, charges, rentals, admissions, or other transactions made subject to the tax imposed by this chapter shall be collected by the state, county, municipality, any political subdivision, agency, bureau, or department, or other state or local governmental instrumentality in the same manner as other dealers, unless specifically exempted by this chapter.

Section 115. Subsection (4) of section 322.142, Florida Statutes, is amended to read:

322.142 Color photographic or digital imaged licenses.—

(4) The department may maintain a film negative or print file. The department shall maintain a record of the digital image and signature of the licensees, together with other data required by the department for identification and retrieval. Reproductions from the file or digital record shall be made and issued only for departmental administrative purposes, for the issuance of duplicate licenses, in response to law enforcement agency requests, or to the Department of Revenue pursuant to an interagency agreement to facilitate service of process in Title IV-D cases, or to the Department of Financial Services pursuant to an interagency agreement to facilitate the location of owners of unclaimed property, the validation of unclaimed property claims, and the identification of fraudulent or false claims, and are exempt from the provisions of s. 119.07(1).

Section 116. Paragraph (1) is added to subsection (4) of section 395.3025, Florida Statutes, and subsection (10) of that section is amended, to read:

395.3025 Patient and personnel records; copies; examination.—

(4) Patient records are confidential and must not be disclosed without the consent of the person to whom they pertain, but appropriate disclosure may be made without such consent to:

(1) The Department of Financial Services, or an agent, employee, or independent contractor of the department who is auditing for unclaimed property pursuant to chapter 717.

(10) The home addresses, telephone numbers, social security numbers, and photographs of employees of any licensed facility who provide direct patient care or security services; the home addresses, telephone numbers, social security numbers, photographs, and places of employment of the spouses and children of such persons; and the names and locations of schools and day care facilities attended by the children of such persons are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. However, any state or federal agency that is authorized to have access to such information by any provision of law shall be granted such access in the furtherance of its statutory duties, notwithstanding the provisions of this subsection. *The Department of Financial Services, or an agent, employee, or independent contractor of the department who is auditing for unclaimed property pursuant to chapter 717, shall be granted access to the name, address, and social security number of any employee owed unclaimed property.* This subsection is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, and shall stand repealed on October 2, 2004, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 117. Section 732.103, Florida Statutes, is amended to read:

732.103 Share of other heirs.—The part of the intestate estate not passing to the surviving spouse under s. 732.102, or the entire intestate estate if there is no surviving spouse, descends as follows:

(1) To the lineal descendants of the decedent.

(2) If there is no lineal descendant, to the decedent's father and mother equally, or to the survivor of them.

(3) If there is none of the foregoing, to the decedent's brothers and sisters and the descendants of deceased brothers and sisters.

(4) If there is none of the foregoing, the estate shall be divided, one-half of which shall go to the decedent's paternal, and the other half to the decedent's maternal, kindred in the following order:

(a) To the grandfather and grandmother equally, or to the survivor of them.

(b) If there is no grandfather or grandmother, to uncles and aunts and descendants of deceased uncles and aunts of the decedent.

(c) If there is either no paternal kindred or no maternal kindred, the estate shall go to the other kindred who survive, in the order stated above.

(5) If there is no kindred of either part, the whole of the property shall go to the kindred of the last deceased spouse of the decedent as if the deceased spouse had survived the decedent and then died intestate entitled to the estate.

(6) *If there are none of the foregoing and part of the normal family lineage of the intestate decedent cannot be documented because it includes a Holocaust victim, the probate court may extend the right of succession to other persons who the best available evidence shows are surviving heirs. A petition by a person claiming to be such an heir may not be dismissed for failure to comply with an applicable statute of limitations or laches. In addition, the court may allow such a claimant to meet a reasonable, not unduly restrictive, standard to substantiate a claim, including a claim that a person's whereabouts are unknown as evidence of a decedent if such claim is from a source that a reasonable person would accept as reliable in the conduct of his or her affairs. For purposes of this subsection, the term "Holocaust victim" means a person who disappeared or lost his or her life or property as a result of discriminatory laws, policies, or actions targeted against discreet groups or persons between 1900 and 1945, inclusive, in Nazi Germany, areas occupied by Nazi Germany, or countries allied or cooperating with Nazi Germany.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 4, line 30, after the semicolon (;) insert: amending s. 717.101, F.S.; providing definitions; amending ss. 717.106, 717.107, 717.109, and 717.116, F.S.; revising criteria for presuming as unclaimed certain bank deposits and funds in financial organizations, funds owing under life insurance policies, funds held by business associations, and property held in a safe-deposit box or other safekeeping repository, respectively; amending s. 717.117, F.S.; revising reporting requirements for unclaimed property; presuming certain accounts as unclaimed under certain circumstances; providing that certain intangible property is exempt from being reported as unclaimed property under certain conditions; amending s. 717.118, F.S.; providing requirements for notification of apparent owners of unclaimed property; amending s. 717.119, F.S.; revising requirements for delivery of certain unclaimed property; providing penalties for late deliveries; amending s. 717.1201, F.S.; revising certain holder payment and repayment requirements; amending s. 717.122, F.S.; revising certain public sale requirements; authorizing the Department of Financial Services to deduct certain auction fees, costs, and expenses; prohibiting actions or proceedings against the department for certain decisions relating to auctions of unclaimed property; specifying that certain sales of unclaimed property are not subject to the sales tax; amending s. 717.123, F.S.; increasing a maximum amount of funds the department may retain from certain funds received; amending s. 717.124, F.S.; providing additional requirements for filing unclaimed property claims; providing for the return or withdrawal of certain claims under certain circumstances; specifying a time period for department determination of claims; authorizing the department to deny claims under certain circumstances; specifying an exclusive remedy for subsequent claimants; revising requirements for a power of attorney; requiring direct delivery of safe-deposit boxes under certain circumstances; revising payment of fees and costs requirements; creating s. 717.12403, F.S.; providing presumptions for certain unclaimed demand, savings, or checking accounts in financial institutions with more than one beneficiary; creating s. 717.12404, F.S.; providing requirements for claims for property reported in the name of an active or dissolved corporation for which the last annual report is unavailable; creating s. 717.12405, F.S.; providing requirements; for claims by estates; amending s. 717.1241, F.S.; revising requirements for remittance of property subject to conflicting claims; amending s. 717.1242, F.S.; clarifying legislative intent relating to filing certain claims; creating s. 717.1244, F.S.; providing criteria for department determinations of claims; amending s. 717.126, F.S.; providing a criterion for proof of entitlement; specifying venue in certain unclaimed property actions; creating s. 717.1261, F.S.; requiring a death certificate in claiming entitlement to certain unclaimed property; creating s. 717.1262, F.S.; requiring certain court documents in claiming entitlement to certain unclaimed property; amending s. 717.1301, F.S.; revising certain fee and expense requirements for investigations or ex-

aminations; providing for interest on such amounts under certain circumstances; amending s. 717.1315, F.S.; clarifying a record retention requirement for owner representatives; amending s. 717.132, F.S.; specifying criteria for certain corrective actions; creating s. 717.1322, F.S.; specifying grounds for certain disciplinary actions; providing for certain disciplinary actions; providing penalties; authorizing the department to adopt rules with regard to disciplinary guidelines; creating s. 717.1331, F.S.; providing for department actions against certain lienholders under certain circumstances; creating s. 717.1333, F.S.; providing for admitting certain documents into evidence in certain actions; amending s. 717.134, F.S.; authorizing the department to impose and collect penalties for failing to report certain information; authorizing the department waive such penalties under certain circumstances; creating s. 717.1341, F.S.; prohibiting receipt of unentitled unclaimed property; providing for liability for such property under certain circumstances; authorizing the department to maintain certain civil or administrative actions; providing for fines, costs, and attorney fees; prohibiting filing claims for unentitled unclaimed property; providing criminal penalties; amending s. 717.135, F.S.; revising requirements for agreements to recover certain property; providing an agreement form; creating s. 717.1351, F.S.; providing requirements for acquisition of unclaimed property by certain persons; providing certain contract requirements; providing a contract form; creating s. 717.1400, F.S.; requiring certain licensed persons to register with the department for certain purposes; providing registration requirements; providing for denial of registration under certain circumstances; providing registration limitations; amending s. 212.02, F.S.; revising a definition to conform; amending ss. 322.142 and 395.3025, F.S.; providing for disclosure of certain confidential information to the department under certain circumstances; amending s. 723.103, F.S.; authorizing the court, under specified conditions, to extend the right of succession to surviving heirs when the decedent's lineage cannot be fully documented because it includes a Holocaust victim; limiting the application of statutes of limitation under certain circumstances; defining the term "Holocaust victim";

Senator Aronberg moved the following amendment to **Amendment 6** which was adopted:

Amendment 6A (800734)—On page 51, line 23 through page 52, line 10, delete those lines and insert:

(6) If none of the foregoing, and if any of the descendants of the decedent's great-grandparents were holocaust victims as defined in s. 626.9543(3)(b), including such victims in countries cooperating with the discriminatory policies of Nazi Germany then to the lineal descendants of the great grandparents. The court shall allow any such decedent to meet a reasonable, not unduly restrictive, standard of proof to substantiate his or her lineage. This subsection only applies to escheated property and shall cease to be effective for proceedings filed after December 31, 2004.

Amendment 6 as amended was adopted.

THE PRESIDENT PRESIDING

MOTION

On motion by Senator Lawson, the rules were waived to allow the following amendment to be considered:

Senators Lawson and Miller offered the following amendment which was moved by Senator Lawson:

Amendment 7 (080682)(with title amendment)—On page 22, line 22 through page 23, line 29, delete those lines and insert:

Section 13. Subsection (4) of section 501.212, Florida Statutes, is amended to read:

501.212 Application.—This part does not apply to:

(4) Any person or activity regulated under laws administered by:

(a) The ~~Department of Financial Services or the~~ Office of Insurance Regulation of the Financial Services Commission; ~~or~~

(b) Banks and savings and loan associations regulated by the Office of Financial Regulation of the Financial Services Commission; ~~or~~

(c) Banks or savings and loan associations regulated by federal agencies; or-

(d) Any person or activity regulated under the laws administered by the former Department of Insurance which are now administered by the Department of Financial Services.

And the title is amended as follows:

On page 3, lines 3 and 4, delete those lines and insert: F.S.; revising the persons and activities that are exempt from part II of

On motion by Senator Posey, further consideration of **CS for CS for SB 2994** with pending **Amendment 7 (080682)** was deferred.

RECESS

The President declared the Senate in recess at 1:01 p.m. to reconvene at 2:00 p.m.

AFTERNOON SESSION

The Senate was called to order by the President at 2:14 p.m. A quorum present—40:

Mr. President	Diaz de la Portilla	Peaden
Alexander	Dockery	Posey
Argenziano	Fasano	Pruitt
Aronberg	Garcia	Saunders
Atwater	Geller	Sebesta
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Campbell	Jones	Villalobos
Carlton	Klein	Wasserman Schultz
Clary	Lawson	Webster
Constantine	Lee	Wilson
Cowin	Lynn	Wise
Crist	Margolis	
Dawson	Miller	

SENATOR VILLALOBOS PRESIDING

RECOGNITION OF PRESIDENT

Senator Villalobos introduced the following guests of President King: Mrs. Linda King, wife of the President; and Mr. Arnold McRae, from Leon Loard Portraits.

Senator Villalobos also recognized the following special guests: Governor Jeb Bush, Lt. Governor and former Senate President Toni Jennings and former Senator Jack Latvala.

REMARKS

On motion by Senator Lee, the following remarks were ordered spread upon the Journal:

Senator Jones: This is a great honor for me to speak today about my sidekick, my colleague and my very best friend, President Jim King.

We bonded in 1986 and have fought the good fight ever since.

At that time, I was the head of the Republican Legislative Campaign Committee when Jim first ran for the House. As we did with all of our candidates during the recruitment phase, we promised them unlimited funds. Needless to say, we didn't come through on our promises. Jim won anyway and still brings it up to this day!

Our President came to this position by hard work, by being a willing listener, by his thoughtful deliberations and by his vast knowledge of the system. I have been proud, extremely proud, to serve with President Jim King.

The aura of cooperation that has existed in this chamber has been a tribute to his fairness and his management style. Even the partisan debates were kept in the proper perspective by his sense of timing and by his sense of humor. Some days, I don't know how we would have survived without his tremendous sense of humor.

Because of his presence, personality, and his professionalism, Jim has been able to get people to aggressively join up rather than reluctantly give up.

Jim's Mom and Dad played a very vital role in shaping his philosophy. They both taught him there wasn't much difference between having nothing and having a lot, so long as you had each other. His father taught him that love of country and patriotism wasn't only expected, but required. His mother shared with him her Irish wit, her love of life and the joy of sharing "adult beverages" with good friends.

To Linda, on behalf of my Senate colleagues, I would like to thank you for sharing Jim with us and for being such a lovely, inspirational and gracious First Lady of the Senate. I know it hasn't been easy. We don't always realize the sacrifices our spouses make for our being in office. We thank you for allowing us to have Jim for these past two years.

Jim, I am proud to share this day with you and Linda, with our colleagues and our friends and yes, Jim, if you ask me, I bet the guy we're about to see will have a strong resemblance to Sean Connery!!!

Senator Diaz de la Portilla: Members, today I rise to share in the praise of an excellent leader and a great friend. There are many words that you will hear on the floor today to describe Jim King; but as I reflected on this opportunity to share a few comments about our Senate President, the same theme kept coming to mind: "guiding principles."

Over the last few years, we've been hearing a lot about those guiding principles. So I thought Jim King has to have guiding principles, every one does. Then I realized you didn't have to discover any guiding principles to lead this body, because you already had them. Jim King's guiding principles are quite simple and quite big: Courage, Character and Optimism.

Mr. President, these principles were ingrained in you by your loving parents, your lovely wife, and your good friends. You were born with these traits in Brooklyn. You brought them with you to St. Petersburg, Florida. You fine tuned them in Jacksonville, as you planned your journey to the state Capitol in Tallahassee. These principles are a way of life to you, apparent not only in how you have served as President of the Florida Senate, but also in how you have lived every day of your life.

In the world of politics where words like courage, character, and optimism are used as campaign slogans and catch lines in press releases, Jim King has truly embodied these words every step of the way.

Some people live their lives afraid to take challenges for fear of failure. They are afraid to make a difference. But not Jim King. Jim King lives for the challenge. For him, life would be incomplete if he didn't muster the courage of his convictions and strive to make a difference. Jim King has fear; we all do. Real courage comes from having fear and saddling up anyway; from having fear and taking on the fight. That's real courage.

Along with courage, Jim King has character.

He developed his character over a lifetime of trials and tribulations. His is a rags-to-riches life, culminating in reaching the highest position in this chamber.

Abraham Lincoln once said, "Nearly all men can stand adversity, but if you want to test a man's character, give him power."

When Jim King was given power, he refused to take the road most traveled. He stood up for this chamber's position issue after issue when it would have been easier and politically expedient to have given in. He did it because he believed that it was important to fight for what was right for Florida, and in particular, for what was right for its most needy citizens.

Did he win all the time? No. But he fought the good fight every time he had to. That is true character.

The third guiding principle that helps define Jim King is optimism. Jim King never looks at a glass as half empty; it's always half full. He believes that anything is possible if we roll up our sleeves and go to work. His attitude is never "Why?" It is always "Why not?" That optimism grows and spreads. It's contagious. It has created a feeling in this chamber that if we put our hearts and minds into something, we can accomplish it. That is why over the last two years, this Senate, under his

leadership, has tackled and found solutions to some of our state's most difficult and pressing issues.

Courage, Character and Optimism.

Jim King brings all these qualities together into one hefty package. He does it all with a joy of life, a sense of humor and a sense of purpose that is truly, truly unique.

Mr. President, the people of Florida are quite fortunate to have a man like you to serve as their Senate President. Long after you leave that rostrum, please never doubt that this Senator was also fortunate to have served as your President Pro Tempore and to learn that even in this process, those words still have meaning. Mr. President, while my term as your Pro Tempore is coming to end, please know your guiding principles will never leave me. Because of you, my courage is greater, my character is stronger, and my optimism is more prevalent. Congratulations to Linda and you on this very special day. Thank you, Mr. President for the opportunity to serve you, and thank you, Jim King, for being my friend.

Senator Lee: Senator King and Linda, this is a special moment for us in the Senate. For those who haven't been through it before, it's a moment of great history and tradition. It's a time when the sun begins to set on two great years of leadership. The portrait is hung and the other portraits are moved around the room. It's a time for us to sit and reflect on what has transpired over the time we have served under a particular president's leadership.

Every President brings something different to the job. In Toni Jennings' first term and second term, I think she had a real style about her, conciliation and charm. She had a grace about her. As a woman, she brought a different style to the job. The "Mars/Venus" thing really is true. We enjoyed serving under her so much. She was very punctual and very detail oriented. John McKay was tough and knew how to use power. He sometimes didn't just have the willingness to do it, but took great joy in using it. I can see some of you were victims of that. Toni was smarter than that. She used Senator Latvala.

Mr. President, you will be remembered, I believe, for having a big heart; for being a man who knew how to use power, but really didn't enjoy doing it. You will be remembered as a consensus builder, as someone who never lost respect, appreciation, and loyalty for those people who helped you get where you are. None of us get here alone. I can tell you, you and I have talked and you have reflected publicly on what was a very, very difficult decision for me a couple of years back when we joined hands and you became Senate President Designee.

I can't tell you how much I have appreciated your standing by my side in things that have been important to me over the last couple of years, just as you have stood by other members of this chamber. You truly have grasped what I believe is an axiom of leadership, and that is, that you are here to serve those who have chosen you to lead. I have learned a little something different from everyone I have served under. You have had a tremendous amount of grace under fire; sometimes, maybe too much grace. I respect you for that. I respect you as a leader. I respect you as a President. I respect the job you've done for this institution over the last two years. It is a great place. We all respect the institution a great deal, but I can tell you no one respects it more than I do.

I am just full of pride when I see leaders take positions on issues, but more importantly, conduct the business of the institution in a way that brings honor to the term, "public service." It's the first and foremost responsibility that each of us have. I thank you for moving that just a little bit up the board in this institution. It has been an honor to serve under you.

Linda, we appreciate the time you have given, involuntarily, to have your husband take the gavel for two years. I know how difficult it must have been. I'm sure you are looking forward to having him back and hopefully, that will be much sooner than later. We'll get out of here on Friday. We won't have to come back here again. Thank you, Mr. President, for your friendship and your loyalty.

Senator Pruitt: In January 2002, I had the honor and privilege of nominating Jim King to be Senate President. I spoke then of his storied life and of a new chapter that was about to be written, a chapter of Jim King being President of the Florida Senate.

Today, we begin to write the final paragraphs of that chapter. One of them will be the unveiling of his portrait that will hang in this chamber for a hundred years.

Now to some, the symbolism of what we are about to do may not mean much. To them, it's just another day in the Florida Senate. But to most, the symbolism of what we are about to do is truly meaningful and profound, meaningful and profound, because each one of these portraits tells of a storied journey.

Storied journeys like that of Gwen Margolis, who rose to become the first woman to be President of the Florida Senate; no small feat when you remember she served at a time when this institution was dominated by men. Gwen, the first portrait I showed my daughters when I brought them into this chamber was yours. I wanted them to know that someone had fought for them and that you were an inspirational role model for every little girl in Florida. I told them that because of women like you they could be anything they wanted to be.

The journey of Jim King has been quite a ride. In fact, I don't think there has been a roller coaster invented yet that would simulate his life's journey, that's probably a good thing. No doubt when I look at Jim King's portrait I will think of his quick wit and his ability to make us all laugh and keep everything in perspective. I will think of his hard-work ethic and how his example of being a self-made man could be a best selling book. I will think of his keen intellect and his ability to quickly grasp issues like no one I've ever seen. I will think of his infinite fairness and sound footing when it comes to balancing the needs of this state. I will think of the major initiatives he has passed, Death with Dignity legislation, and the passion he has shown for biomedical research. Helping to find cures for the illnesses that cause many to die way before their time.

However, when I look at Jim King's portrait, the one attribute that will define him most, the one quality that endears all of us to this great man, is his unbridled and unflinching love of his fellow man. Jim King would give you the shirt off his back, no questions asked and wouldn't expect anything in return. If there were an instrument that measured the love and kindness of someone's heart, Jim King's would go off the scale.

While Jim King is many times the center of attention, his center of attention is everyone else. He genuinely cares for the welfare of others and has more empathy than any one person I know. He feels the pain of others as if it were his own. Beginning today, the portrait of President Jim King is added to the roster of other former Presidents. He joins this distinguished group of men and women who will forever look down from the perch of history upon the Senators and Presidents who labor in this chamber.

In their silent stares, they remind all of us to not be tempted to do what may be politically expedient, but to remain firm in doing what is right. The gleam in their eyes carries that hope through the calendars of time.

They say that a portrait is a snapshot in time meant to last throughout the ages. Mr. President, I am glad that my children and grandchildren will be able to look upon that painting and say that their Dad and Granddad was fortunate enough to serve with such a great man.

So yes, we finish writing one chapter in your life today, Mr. President. But history also begins to write its chapter on you today. I know in the book of history, the name Jim King and the valiant actions he took on behalf of the people he represented, and of the Senate that he served and loved, will always stand out in bold print.

Mr. President, for half of my adult life I have followed you. I have followed you from the back row to the front row. It has been an incredible journey.

We have been disappointed together,

We have celebrated together,

We have fought together,

We have laughed together, and,

We have cried together.

Jim, on a personal note, we sometimes get so caught up measuring success by what our decisions do for the today of life, that we sometimes fail to appreciate what those decisions will do for tomorrow. It is my sincere hope that you will reflect back on all the good you have done for Florida.

It is said that a rising tide floats all boats. Mr. President, you have been a rising tide, a rising tide for every Floridian and for every little boy and little girl who is depending on us for a better tomorrow. When that tomorrow comes, they may not remember your name or what you did to make life better for them; but in their own quiet moments of reflection, they will know that someone great gave them the hope, opportunity, and prosperity they enjoy. They will say to no one in particular, "Well done, my friend, well done." That my friend is your lifelong legacy that will go for generations. Godspeed to you.

Senator Webster: I didn't know that I was in the script. I have one small sentence to say, "I love Jim King; long live the King."

Senator Smith: In January 2002, I was asked if I would second Senator King's nomination. I think that was significant. Some of you who are still new here are just beginning to learn the significance of that. I think the message was very clear. The message was, that a Democrat was going to be picked to be one of the people who would speak on behalf of the person we were bringing in. I said then that I knew that Jim King would be a success because he takes his work seriously, but he doesn't take himself too seriously. That has been proven to be absolutely true.

In fact, I think that as I look back it has been an amazing run in the sense of what he has done for me; I want to thank you personally for that. I had only been here two years. I don't come from the legislative background. Jim King said, "I want you to second the nomination." Arguably during some of the most contentious issues that we have had since we have been here, he has always had at least one Democrat with him all the way as part of the people guiding him. That has been his idea, not a personal idea; it's his idea of cohesiveness, it's his idea of what we do collegially together.

So when, perhaps the toughest issue, medical malpractice came about, that was, as we now look back on it, a brutal summer. In just four more weeks my marriage is off probation. It was a difficult and terrible time. Linda, thank you for what you did, because he was here every single day. He selected a Democrat to be one of the two people to represent him in that process and represent this body in that process. You can imagine how that went over with some people on the other side. I happen to know, and not because he told me, that there were people who called him and complained about that. He said, "That is who I picked. That is who is going to represent the Senate." I appreciate that. Not just personally, but as a member of the Democrats who felt like we got to be a part of the decisions that were the most important. I think we should remember that as part of his legacy.

There was a question in everyone's mind whether we would stand up when all the chips were against us. It would have been so easy when the Governor, the Cabinet, and the House were aligned so uniformly against us. He couldn't go to his hometown because of the billboards, the only billboard he had was in Palatka and it was for a fishing tournament; everything else was horrible. He couldn't read his own newspaper. We would call the staff and say, "Whatever you do, stop the Jacksonville paper from getting to him this morning." He never flinched. He made the Senate the player it was always supposed to be. When his portrait hangs there years from now, and we begin to think about the importance of what he has done, I want us to remember the importance of what he has done as he put the Senate back in the position it has always held.

The importance of Jim King will not be the legislation necessarily that has been passed, the importance of Jim King will be the things he stopped from happening. That's the role the Senate has always played. You will not appreciate it, unless you have been through it with him, the things that he said, "No" to; "No, we are not going to do that." Why? Because that will destroy the cohesiveness of the Florida Senate. No, we are not going to do that. We don't need to do that because I never met a serious man who took "party" too seriously. Jim King didn't. He is a hard-core Republican to the soul. Most of all, he is a Floridian. He always expressed that in the actions we took together.

Now there are several things that I would personally say about Jim King's administration that I think it will be remembered for: Number

one, when I came here two years ago, I almost never drank. Next Monday, I plan to enter a twelve-step plan. Number two, it is said that the University of Florida's liver transplant list has expanded by thirty-five, only Senators Webster, Fasano and Wise are excluded.

It has been said that a man can be known and judged by the company he keeps. I look to the West Gallery. Senator Diaz de la Portilla said that Jim King never saw the glass as half empty. In two years with him, up and including last Thursday night, neither did I. I think of the things that he should be remembered for in terms of his public pronouncements. I will always remember, and I don't know the math on this precisely, that in two years everyday, not once did he get the name "Diaz de la Portilla" right. Today was a special day and he even left the "la" out.

I want to conclude with this: Jim King has been a great mentor to me. He came to me, and I have to admit to this publicly, he said, "I want you to do for the Senate what Ron Silver did; that is, I want you to try to." Those of you who served with Senator Silver know what I am talking about. I have tried to do that. To the degree that I have had any success in this process, and I will tell you tomorrow I will bring up a bill that is arguably one of the most important pieces of legislation we have had in five years, because that has been required of us. To the degree that I have been allowed to do that, to the degree that when the constitutional amendments meant so much to him that he put a Democrat in charge, says to me that he has set a model for us to work for now and in the future. That is that we are Americans first, we are Floridians second, and we are Republicans and Democrats a distant third. That's his legacy to me.

Senator Klein: Senator King and Linda, thank you for all your service. So many good things have been said today.

As we look at the pictures, and know that somebody worked hard last night to rotate all of them all the way around the room, I wonder where he went. Where is this room of pictures of past Presidents? Somebody needs to tell us. I look at the wall where there will be a picture of our current Senate President, and I see some of the pictures from the most recent years. I see a very serious Toni Jennings (I never saw Toni Jennings look like that before, always a smile but obviously very dignified). We all envision Senator King as someone who is happy, jovial, with a colleague's great sense of humor, great wit, great timing. I expect that no matter what that picture looks like, that's always going to be what everyone in this room and I remember about him.

I want to add a couple of thoughts from the perspective of the leader of the Democrats. We've had the chance to work together. Everything that has been said by all of our colleagues, both Democrat and Republican, up to this point I would agree with.

When I was in the House, the Democrats were in the majority and the Republicans were in the minority. Jim King was one of the best bomb throwers. I mean clearly, he was good, he was succinct, he was quotable; all the things that the minority is supposed to be and be effective. Very effective. As we've gone into a transition over the last decade of Republicans taking control of the process in this state—not to my best vantage here, we've seen things that have kicked in—term limits among other things and the term limit impact has been pretty dramatic. I think we've seen the effect of term limits on the House very dramatically. People have come in and established a new culture. It's a culture that has really made some interesting changes over there. It's also beginning to come over here, both Democrat and Republican. The impact of serving in a chamber where it has become very, very partisan and then coming to this chamber is, obviously, that people coming from that experience have to be re-acclimated, if that's a word.

I think ultimately the mark of a great leader is someone who can take a group of 40 people who come from different backgrounds, different life experiences, and mold them into a body of 40 where we all know that our job is to put out the best legislation that we can. I think everyone in this room recognizes that the Senate's legacy, historically and into the future and through this past two years, is that 40 people working together can put out the best legislation that is possible. It's not 26, it's not 14, it's not 30 to 10, it's generally 40. Even though there may be some disagreements on how to get there, along the way, ultimately, I think we're a varied group of proud Senators because Senate President Jim King is our leader.

I congratulate you. I thank you for being someone I could work with; only two or three times we had our private meetings where we sort of slammed the table a couple of times, but it was worth it. It has been a pleasure; it has been my life experience to serve at the highest point that I will in this Senate as a colleague and a counterpart to you and your team. I will always look at it as one of the fondest experiences in my life. I probably learned more than I could have ever learned in any other environment. I thank you for being our President. I thank you for being my colleague.

Senator Bullard: I am so pleased to have an opportunity to rise. I did not know that there was a script. I always write my script as I go. I want to say that Elvis has nothing on you. You are the King.

I remember when I was running for office, and part of what gave me the incentive was my passion for this process. When someone said, "You know who's going to be the Senate President, don't you?", I said, "Who?" They said, "Jim King." I said, "I want to serve under him." That gave me the incentive to work even harder.

I want to say that when that happened, coupled with the fact that I served with you in the House, I got to know you there. The one thing I learned about you in the House during those eight years that I served with you, is that you cared about people first. That is what I stand to say. It didn't matter who you were. It didn't matter if you were an "R" or "D." If you liked the person, you liked them. You disagreed sometimes in philosophy, but you always showed care, loving care, sensitivity, and compassion for people.

In my two years as a spouse out of the process, I had the privilege of serving in the spouse's lounge with Linda King. That gave me the opportunity to learn that, my goodness, he's probably far more special than I'll ever know. You have a lovely wife, who loves you and I know that. I could feel it in every breath and every word she spoke in that spouse's lounge. So I say to you, that I wish you both, that when you leave this process, take time and have some fun.

Thank you for appointing me as the Vice Chair of the Education Committee with Senator Constantine. I found it to be a great experience, and thank you for choosing me to do that.

The time has come for us to say so long to someone I'm going to always like. I think about the time you called me into your office and said, "Larcenia, I don't know a lot about you. I only know what I observe of you on the floor. Tell me some things about you." You sat there and listened to me talk about me, and I thank you. We got to know each other a whole lot better. Thank you, and I love you.

UNVEILING OF PORTRAIT

On motion by Senator Peaden that a committee be appointed to escort the President and his wife to the front of the chamber for the unveiling of the portrait, Senator Villalobos appointed Senators Bennett, Carlton, Lawson, Peaden, Smith and Wasserman Schultz. The official portrait of President King was unveiled by the Secretary and the Sergeant at Arms and presented to the Senate.

Senator Jones joined Senator Villalobos at the rostrum for a video presentation of a gift, on behalf of the Senate, to President and Mrs. King of a garnet and gold, four-seat golf cart.

THE PRESIDENT PRESIDING

ADDRESS BY PRESIDENT KING

President King: This is going to be tough. Senator Pruitt, you and I were talking about this last night as we prepared, and knew that we would have this opportunity to speak about each other and how tough it would be. Maybe it was because emotions have been running so high. I don't know; I'll be pretty lucky if I get through this thing with a dry eye. Thank you all very much, and a special, special thank you to my Majority Leader and dear friend, Senator Dennis Jones. Today is a very special day for me. I could think of no one, Dennis, no one else who I would rather have present this portrait to me than my political pal, DJ.

Dennis and I have been friends for well over 18 years. We go back as far as when our hair was a lot darker, our suit size was a whole lot smaller, and our senses (especially Dennis' hearing) were a whole lot sharper! But some things can never change, and that would be our

friendship and loyalty to each other. I thank you, my colleague and my best political friend, for helping to honor me here today. In so many ways through the years, the event of being President could just as easily, perhaps more correctly, be yours than mine. You adopted me when I first got elected. You and Betsy nurtured me as I made my run; and you never, ever, ever blinked. I can promise you when they are spreading dirt upon my crypt, I will still remember the times that we had, the loyalty that you showed, and the dedication that you gave.

I also want to thank Ken, Alex and Tom for their kind words. You all made up one of the best leadership teams ever assembled in this body. Together, you have all provided me with unwavering support, unshakable loyalty, and undeniable and remarkable results. Individually, you have shared your expertise and talent with me as your President and with this body as a whole. So many of us here today owe you all so much.

Ken, I owe you a special debt of gratitude for all of your hard work as Appropriations Chair, and as my constant cheerleader. You carried out my wishes of producing a fair and balanced budget, and have done a great service to your state. It's ironic, really ironic in a way. Many years ago, you started out as my protégé. How many times did I take you back in the bubble to whip you into shape? How many times have I told you how you should comport yourself? How many times have I told you how you had such a great political future? The irony of it all now, years later, that it is I who have learned from you, and I who lean on you. "Thank you" are two short words that don't say enough about the friendship you've given me, the support you've given me, the fact that no matter what I did, you were there to pick up the pieces or to help accept the accolades.

Alex, I was at first paranoid to eat anything that you might have served me, for fear that by doing so, one misplaced item on your part would make you President of the Senate. You have made me so very, very proud over the past two years. I knew you would! You came to me during the time that we were making our run, pledged to me and said, "All I want is to be a part of your team. Give me a chance." I did. I will tell you that throughout the ensuing two years, I have seen, almost like a rising phoenix, a career that many people thought had gone asunder, come out with poise, dignity, respect and above all else, that which I will remember to my dying days, loyalty. When it wasn't popular, you stayed by my side. When we won, even when it was tough to do, you gave good counsel. Good friends like that are hard to find. Political friends like that are almost impossible to find.

Tom, yours and mine was sort of a rocky beginning because it was your decision to amalgamate your team for President with mine. While I was thrilled to have the opportunity, I was ever mindful that I could very easily be getting a presidential-want-to-be who would look over my shoulder, critique every move and in more ways than one say, "If I were he, this is how I would have done it." Nothing could have been ever further from the truth. From the time I took that gavel to this day, you've never let me think for a moment that there was a decision I could make that you wouldn't try to carry out. There was never a time, and there were opportunities, for you to bolt or for you to try to leverage the power upcoming that you had to wrest power from me, the outgoing president. You never did. I will remember that. I hope that there comes an opportunity since my career is not over—I still have two more years in this body—I hope that given the opportunity, I can show you the same kind of loyalty and dedication that you showed me. So many times, you circled the wagons. So many times, you bolstered the team. So many times, you said, "We need to do it because the President needs to do it." You are a great street fighter. Your father taught you well. I've never seen anybody who can negotiate like you can. I've never seen a time when you were thrown into battle that even if we didn't come back victorious, we could not be proud of the casualties that we left.

Thank you also, Senator Villalobos and Senator Peaden, two other of my pledges that joined me early on; Senator Villalobos was my first. I embodied in you the power of chairmanship. I gave you the responsibility of carrying forth the efforts of the leadership team and of me. We heaped on your plates legislation after legislation, much of which I know because in private conversations, you would express with me how happy you were with some of those decisions we had made to give you some of those great bills. But you did it unwavering and you did it well and I appreciate it.

Of course, I thank each and every one of you here in this chamber—the members of this Senate for the opportunity and privilege of serving as your President. I firmly believe that a presiding officer is only as good

as the membership he or she leads, and I say, with great certainty, that I consider all of the achievements of the last two years our collective successes.

I cannot believe how time has flown by. It seems like only yesterday that I was being designated as the 83rd President of the Senate.

Earlier this week I noticed that the movement of the pictures had begun in order to make room for mine. It is such a surreal feeling to be joining Presidents that date back to the year 1907. Of course, Madam Secretary, I have to wonder, where did the picture of Senator Trammell go? He was over there and now he's gone. I would like to know in advance where my portrait will be after its 100 years are up—not that I will be around to care!

I remember walking into this chamber in 1999 on the day I was sworn in and looking up at the 100 years of leaders hanging here in this gallery. I remember saying to myself: "One day I hope to be up there." Each of these Presidents will go down in history for many different reasons. But for me, as I've thought of it, I want my legacy of leadership to be simply this: I want to be remembered as a consensus builder who fought to bring our chamber together and to merge our ideas with that of the House and the Governor. While the first year may have been difficult—dare I say painful—it seems to have all evened up in this, the second year. Hey—two out of three of those goals isn't bad! The Governor and I are still merging our ideas together.

I also want to be remembered for my inclusive management style. Each day, I tried to focus on the wishes of my colleagues—Republican and Democrat alike—and lead by committee input rather than by simply just my desires and beliefs. Many times I said that I would let the body decide what course we would take—as a result, the course we took was, indeed, plotted by you all collectively.

Finally, I'd like to be known as the President who vowed to make a difference and left his term of office putting real reforms in place and significant and needed new laws on the books.

As I reflected recently on the goals I outlined in both of my State of the Senate addresses, I was pleased to note that, with all of your help, virtually every one of them has come to pass or hopefully soon will come to pass.

We have advanced biomedical research and we've enhanced our economic development with Scripps as a classic example. We will soon reform our constitutional amendment process. We've produced real and balanced budgets. We've crafted countless consumer protection laws and stricter public safety regulations to keep our neighborhoods safe. These are our collective successes and I want to thank each of you for helping me achieve these noble goals.

I would be remiss if I also did not thank my staff for their tireless efforts and dedication to not only me but to the Senate and what it stands for. To my district staff, you've loaned me to the fourth floor these past two years. Thank you for holding down the fort in Jacksonville and for standing up for my actions. Be advised. I'm back. Break time is over.

To the staff of the President's Office—you have made me so terribly proud. Your professionalism, loyalty and unbelievable hard work have truly made a difference. I started out simply wanting to build a winning team. I ended up building a dedicated family that never lost its sense of humor nor its sense of purpose. No matter how scattered our lives may become, we will all forever be a part of each other's memories and I thank you, thank you all for a job well done.

As I come to this close, I want to thank my lovely wife, Linda. It has been said that behind every man is an even greater woman pushing like crazy. But in this case, she never truly was behind me or walked in my shadow. Rather, she took a place by my side, supporting me, encouraging me and oftentimes defending me. During the medical malpractice debates that we all so enjoyed, Linda said she refused to return to Jacksonville unless and until our newspaper apologized. We've got some nice property in Jacksonville, if anybody has an interest. Last year was terribly hard on both of us, but Linda, it could not have happened successfully if it were not for you. I appreciate it. It might have been so different were you not there with me, Linda.

Thank you for helping me realize my dreams, wife, and for sharing me and our valuable family time with the people of Florida. I had promised

you when I accepted the responsibilities of the Presidency that this would be our last political hurrah, that the political end was in sight.

Well baby, who knows, I guess we'll just have to wait to see!

RECOGNITION OF PRESIDENT PRO TEMPORE

The President introduced special guest Claudia Diaz de la Portilla, wife of Senator Diaz de la Portilla.

Senator Bennett: Mr. President, I am honored today to have the opportunity to make a few remarks about a fellow Senator, a leader, and a friend. I first met Senator Diaz de la Portilla when I was elected to the House in 2000.

I was lucky enough to serve with his younger brother who shared with me through demonstration, the Cuban belief in loyalty. Renier explained to me that to him and his family, loyalty was the key word in any relationship they had. Later that year my newfound friend introduced me to his brother, Alex Diaz de la Portilla. I found that he and I shared that same sense of loyalty, and commitment to friendship and family.

The most moving statement that I have ever heard spoken on the Senate floor came when Alex was making his acceptance speech. He said that the reason he was standing tall on the podium was because he was standing on the shoulders of his parents. That was the day I knew Alex would be my friend.

I have watched as my friend put his loyalty to you, specifically, and to others including myself, above some of his own wishes. I have watched as he has been torn between his loyalty to you and his loyalty to his constituents.

It has been interesting to see him debate on the smoking bill, the parental notification bill, and other bills, that he may have been not in 100 percent agreement on, but was always true to his commitment to you.

It has been said that the path of a good leader is to be a good follower; it is said that if you expect loyalty, you must first give it to others; and if you want friends, you must be a friend.

Alex has shown he understands loyalty, friendship, and leadership.

Mr. President, you made an excellent choice in choosing Senator Alex Diaz de la Portilla as your President Pro Tempore.

Alex, thanks for doing a great job. Thanks for your loyalty, your sense of family, and thanks for being my friend.

Senator Webster: I rise to speak about our Pro Tempore, and my personal advisor on issues of "culture and cool," Senator Alex Diaz de la Portilla. I would like to make a few observations about your last two years—I am pretty sure that those are the only years that you want me commenting on. We have been colleagues both in war and peace—and I must say that I like peace much better.

Alex, you have been a very diligent member. I have seen you at more early morning meetings than ever before. Whether in committee, in leadership strategy sessions, or on the floor, your presence at these meetings, your keen political sense and your debate have made this process better.

Alex, I have always admired the way that you love and honor your family. You have two of the nicest parents any one could ever have. Your love for them and loyalty to your family has shaped you and influenced you in a positive way.

Speaking of positive influences, I think I can speak for all of us when I say that marriage has been good for you! Scripture says that a good wife is a gift from the Lord. Certainly God blessed you with Claudia.

A Pro Tempore means "for the time being." The purpose of a Pro Tempore is to serve as an extension of the wishes and agenda of the leader. Alex, you have been one good Pro Tempore.

You have been the picture of loyalty to President King. You carried the tough issues that the President had strong feelings about, and issues that he needed someone he could trust to further his wishes or position.

He called on you—from the smoking amendment to parental notification—and you answered the call with loyalty and determination, shepherding these issues through the process as if they were your own.

Finally, Alex, you are a changed man. If someone had told me seven years ago that I would one day be honoring you, I would have thought they were crazy. Literally. It is not always easy to forgive, however, I believe that forgiveness should be given freely. So, I want to thank you, Alex, for your service not only to President King, but to the Florida Senate.

President King: I have already said so many of the meaningful things that can be said. I want to reiterate the fact that I knew going in what Alex would become. I knew because I could see in him that same verve that used to look back at me when I shaved. I could see the dedication and the commitment, and the fact that up to that point, not unlike me, in my earlier days in the minority party, he never really had been given an opportunity; he really never had a chance to show what he could do. I made my decision, probably before Alex even asked. I never looked back once. So, on behalf of a very, very appreciative President and speaking for a very much impressed Senate, I present something to you that will not only have great meaning, because it comes from the heart and it comes from this body, but it has great importance in the rest of your life.

The President appointed Senators Argenziano, Aronberg, Margolis, Posey, Haridopolos and Atwater to a committee to escort Senator Diaz de la Portilla to the rostrum. On behalf of the Senate, the President presented Senator Diaz de la Portilla with a gift of a wrist watch.

ADDRESS BY PRESIDENT PRO TEMPORE

Senator Diaz de la Portilla: I'm not used to having such nice things said about me.

Mr. President, could we make 154,000 videotape copies and have them mailed to my constituents?

Thank you Senators Webster, Jones and Bennett for those kind words. You read them just the way I wrote them.

I want to tell my Mom and Dad, who could not be here today, thank you for doing all you did, and all you still do for me. I know it wasn't easy, coming from a different country with a different language, but you did it. You never complained. So please stop telling me how proud you are of me. Whatever little I have accomplished pales in comparison to what you both did.

To my wife Claudia, thank you for being the special person you are. I know I am not the easiest man in the world to please, but you always know that my love for you is unconditional and that you have made my life complete.

President King, thank you for believing in me and for giving me the opportunity to work closely with you. You are a true public servant, a decent man and, more importantly, a loyal friend.

I hope I have lived up to your expectations. I know we haven't always agreed but thank you for respecting my right to disagree. You know I have always respected your right to be wrong.

Senators, it has been a true honor to serve as your President Pro Tempore. We have taken on some very difficult issues over the last two years. Every single time, every single one of you has done it with a sense of decorum and collegiality that should make all Floridians proud.

This is a very special place. In here, men and women from all walks of life come together to try to do what is best for the people of Florida. In this chamber, men and women with different accents, of different color, religion, ideologies and economic levels somehow manage to find common ground.

It isn't always pretty. We don't always get it right. But I applaud each and every one of you for the sacrifices you and your families make to serve your constituents.

Thank you for allowing me to serve as your Pro Tempore. It has been a great honor. Thank you for this wonderful gift. I will always treasure it.

RECESS

The President declared the Senate in recess at 3:31 p.m. to reconvene at 3:45 p.m.

CALL TO ORDER

The Senate was called to order by the President at 3:56 p.m. A quorum present—40:

Mr. President	Diaz de la Portilla	Peadar
Alexander	Dockery	Posey
Argenziano	Fasano	Pruitt
Aronberg	Garcia	Saunders
Atwater	Geller	Sebesta
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Campbell	Jones	Villalobos
Carlton	Klein	Wasserman Schultz
Clary	Lawson	Webster
Constantine	Lee	Wilson
Cowin	Lynn	Wise
Crist	Margolis	
Dawson	Miller	

SPECIAL ORDER CALENDAR, continued

On motion by Senator Posey, the Senate resumed consideration of—

CS for CS for SB 2994—A bill to be entitled An act relating to the Department of Financial Services; creating s. 17.0416, F.S.; authorizing the Chief Financial Officer to provide certain services on a fee basis under certain circumstances; requiring the Department of Financial Services to deposit fees collected into the General Revenue Fund; authorizing the department to recover expenses by a budget amendment; authorizing the department to adopt rules; amending s. 17.16, F.S.; providing that the office of the Chief Financial Officer may have an official seal; amending s. 17.57, F.S.; authorizing the Chief Financial Officer to use reverse repurchase agreements in investment transactions; amending s. 17.59, F.S.; revising collateral safekeeping requirements; amending s. 17.61, F.S.; authorizing entities created under the State Constitution to invest funds; amending s. 20.121, F.S.; providing that the Chief Financial Officer may be referred to as the "Treasurer"; providing that the Department of Financial Services, rather than the Office of Insurance Regulation, is responsible for regulation of insurance adjusters; providing that the Director of the Office of Insurance Regulation may be known as the Commissioner of Insurance Regulation; providing that the Director of the Office of Financial Regulation may be known as the Commissioner of Financial Regulation; amending s. 110.1227, F.S.; providing that the Director of the Office of Insurance Regulation, rather than the Chief Financial Officer, shall appoint an actuary to the Florida Employee Long-Term-Care Plan Board of Directors; amending s. 112.215, F.S.; redefining the term "employee" to include any state university board of trustees; providing for the Government Employees' Deferred Compensation Plan to be funded indirectly from fees charged by investment providers to plan participants; replacing the term "plan provider" with the term "investment option provider"; amending s. 215.95, F.S.; revising the membership of the Florida Financial Management Information Board; amending s. 215.96, F.S.; revising the membership of the coordinating council to the Florida Financial Management Information Board; extending the date of future repeal of the law requiring the board to facilitate the integration of certain administrative and financial management systems and establishing the Enterprise Resource Planning Integration Task Force; amending s. 287.064, F.S.; authorizing the financing of a guaranteed energy performance savings contract pursuant to a master equipment financing agreement; providing certain terms and restrictions; amending s. 408.05, F.S.; providing that the Director of the Office of Insurance Regulation, rather than the Chief Financial Officer, shall appoint an employee to the State Comprehensive Health Information System Advisory Council; amending s. 501.212, F.S.; specifying persons, causes of action, or activities that are exempt from part II of chapter 501, F.S., the Deceptive and Unfair Trade Practice Act; amending s. 516.35, F.S.; correcting a reference to the agency that licenses the sale of credit insurance; amending ss. 624.313, 624.317, 624.501, 626.016, 626.112, 626.161, 626.171, 626.181, 626.191, 626.211, 626.221, 626.231, 626.241, 626.251, 626.261, 626.266,

626.271, 626.281, 626.2817, 626.291, 626.301, 626.371, 626.381, 626.431, 626.461, 626.471, 626.521, 626.541, 626.551, 626.611, 626.621, 626.631, 626.641, 626.661, 626.681, 626.691, 626.692, 626.8582, 626.8584, 626.859, 626.863, 626.865, 626.866, 626.867, 626.869, 626.8695, 626.8696, 626.8697, 626.8698, 626.870, 626.871, 626.872, 626.873, 626.8732, 626.8734, 626.8736, 626.8738, 626.874, 626.878, F.S.; transferring and renumbering s. 627.7012, F.S., as s. 626.879, F.S., and amending such section; making conforming changes to authorize the Department of Financial Services, rather than the Office of Insurance Regulation, to regulate insurance adjusters; amending s. 626.9543, F.S.; specifying that the Department of Financial Services, rather than the former Department of Insurance, administers the Holocaust Victims Insurance Act; amending s. 626.989, F.S.; correcting references to the Bureau of Workers' Compensation Insurance Fraud with regard to the required annual report of the Department of Financial Services related to workers' compensation fraud; amending s. 627.0628, F.S.; providing that the Director of the Office of Insurance, rather than the Chief Financial Officer, shall appoint an employee of the office who is an actuary to the Florida Commission on Hurricane Loss Projection Methodology; amending s. 627.6699, F.S.; providing that the Director of the Office of Insurance Regulation, rather than the Chief Financial Officer, shall be a member of the board of the Small Employer Health Reinsurance Program; providing that the transfer of the regulation of adjusters from the Office of Insurance Regulation to the Department of Financial Services does not affect any administrative or judicial action prior to or pending on the effective date of the act; providing that any action approved or authorized by the Financial Services Commission or the Office of Insurance Regulation continues to be effective until the Department of Financial Services otherwise prescribes; providing that the rules of the Financial Services Commission related to adjusters shall become rules of the Department of Financial Services; providing an effective date.

—which was previously considered and amended this day. Pending **Amendment 7 (080682)** by Senator Lawson was withdrawn.

MOTION

On motion by Senator Lawson, the rules were waived to allow the following amendment to be considered:

Senators Lawson, Miller and Aronberg offered the following amendment which was moved by Senator Lawson and adopted:

Amendment 8 (111920)—On page 23, lines 26-29, delete those lines and insert: *However, this subsection does not affect any action or remedy concerning residential tenancies covered under part II of chapter 83, nor does it prohibit the enforcing authority from maintaining exclusive jurisdiction to bring any cause of action authorized under part II of chapter 501.*

Pursuant to Rule 4.19, **CS for CS for SB 2994** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Bennett—

CS for SB 2548—A bill to be entitled An act relating to regulating the consolidation and recordation of lands; providing for assembly and readjustment of certain land plats; revising provisions relating to recording land plats; amending ss. 95.191 and 95.192, F.S.; limiting actions to recover certain property after a tax deed has been issued; amending s. 125.01, F.S.; revising certain powers of county governments to regulate lands; amending s. 127.01, F.S.; specifying consolidation of certain property for certain purposes as a public purpose; amending s. 163.3164, F.S.; revising the definition of the term “land development regulations” and defining the term “land assembly or adjustment”; amending s. 163.3177, F.S.; revising requirements of future land use plan elements of a required comprehensive plan to address antiquated subdivisions and consolidation of certain properties for certain purposes; amending s. 163.3202, F.S.; revising certain land development regulation requirements to address consolidation of certain properties for certain purposes; amending s. 163.340, F.S.; revising certain definitions to include consolidation of certain properties and antiquated subdivisions; amending s. 163.360, F.S.; including antiquated subdivisions under certain community redevelopment plan requirements; amending s. 166.411, F.S.; including consolidation of certain properties for certain purposes under

municipal powers of eminent domain; amending s. 177.011, F.S.; providing additional purposes and scope relating to platting, replatting, and reassembly of lands; providing intent relating to regulation of land platting and land assembly or adjustment; amending s. 177.031, F.S.; revising the definition of the term “subdivision” and defining the term “land assembly or adjustment”; amending s. 177.091, F.S.; requiring recordation of approved subdivision plats in certain public records; amending s. 177.101, F.S.; authorizing local governing bodies to order the assembly or adjustment of all or portions of subdivisions for certain purposes; providing an exception; providing criteria and requirements; amending s. 177.111, F.S.; requiring submittal of certain approved plats to certain entities; amending s. 290.003, F.S.; declaring the revitalization of antiquated subdivisions to be a public purpose; amending s. 290.0058, F.S.; revising provisions for determining general distress of certain areas to include antiquated subdivisions and other criteria; amending s. 380.031, F.S.; revising the definition of the term “land development regulations” and defining the terms “antiquated subdivisions” and “land assembly or adjustment”; amending ss. 695.01 and 696.01, F.S.; requiring recordation in certain public records of actions relating to real property or interests in real property; requiring attachment of certain plats or surveys to certain instruments; amending s. 697.01, F.S.; including contracts or agreements for deed in a provision relating to deeming certain instruments as mortgages; specifying application of certain recordation requirements; providing an effective date.

—was read the second time by title.

Senator Bennett moved the following amendments which were adopted:

Amendment 1 (922330)(with title amendment)—On page 3, line 26 through page 4, line 26, delete those lines and redesignate subsequent sections.

And the title is amended as follows:

On page 1, lines 6-9, delete those lines and insert: recording land plats; amending s. 125.01, F.S.; revising

Amendment 2 (132702)—On page 5, delete line 20 and insert: *allow replatting for more appropriate development consistent with the public policies of the jurisdiction or for public use shall*

Amendment 3 (760096)(with title amendment)—On page 9, line 8, after the period (.) insert: *Plan amendments that are needed to address requirements related to land assembly or adjustment of platted or subdivided lands or antiquated subdivisions shall be addressed prior to local government action to exercise such land assembly options or no later than the first evaluation and appraisal report which is due to be submitted at least 3 years after July 1, 2004.*

And the title is amended as follows:

On page 1, line 22, after the first semicolon (;) insert: providing a deadline for addressing certain plan amendments;

Amendment 4 (872168)(with title amendment)—On page 13, line 3 through page 14, line 14, delete those lines and insert: *development consistent with the public policies of the jurisdiction or for public use.*

Section 11. Section 177.011, Florida Statutes, is amended to read:

177.011 Purpose and scope of part I.—This part shall be deemed to establish consistent minimum requirements, and to create such additional powers in local governing bodies, as herein provided to regulate and control the platting, replatting, and reassembly of lands. *The public health, safety, comfort, economy, order, appearance, convenience, morals, and general welfare require the harmonious, orderly, and progressive development of land within this state and its counties and incorporated municipalities. In furtherance of this general purpose, counties and incorporated municipalities, individually or in combination, may adopt, amend, or revise and enforce measures relating to platting and land assembly or adjustment.*

(1) *The regulation of platting and land assembly or adjustment is intended to:*

(a) *Aid in the coordination of land development in counties and municipalities in accordance with orderly physical patterns.*

(b) Discourage haphazard, premature, uneconomic, or scattered land development.

(c) Encourage development of economically stable and healthful communities.

(d) Ensure adequate utilities provision to all lands being developed.

(e) Serve as one of the several instruments of the local comprehensive plan authorized by s. 163.3161.

(2) This part establishes minimum requirements and does not exclude additional provisions or regulations by local ordinance, laws, or regulations.

Section 12. Subsection (23) is added to section 177.031, Florida Statutes, to read:

177.031 Definitions.—As used in this part:

And the title is amended as follows:

On page 2, lines 9 and 10, delete those lines and insert: F.S.; defining the term “land

Amendment 5 (894626)(with title amendment)—On page 28, line 9 through page 29, line 31, delete those lines and redesignate subsequent sections.

And the title is amended as follows:

On page 2, line 30 through page 3, line 9, delete those lines and insert: and “land assembly or adjustment”; providing an effective date.

MOTION

On motion by Senator Bennett, the rules were waived to allow the following amendment to be considered:

Senator Bennett moved the following amendment which was adopted:

Amendment 6 (270988)—On page 25, lines 26-31, delete those lines.

Pursuant to Rule 4.19, **CS for SB 2548** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

Consideration of **CS for SB's 2346 and 516** was deferred.

On motion by Senator Cowin—

CS for CS for SB 1700—A bill to be entitled An act relating to financial impact statements for proposed constitutional amendments; amending s. 15.21, F.S.; requiring the Secretary of State to submit certain proposed constitutional amendments to the Financial Impact Estimating Conference; amending s. 16.061, F.S.; requiring the Attorney General to immediately petition the Supreme Court for review of certain financial impact statements; deleting duties of the Attorney General with respect to constitutional amendments proposed other than by initiative; amending s. 100.371, F.S.; revising the times within which the Financial Impact Estimating Conference must complete its analysis and financial impact statement for amendments proposed by initiative; providing for open meetings; establishing the Financial Impact Estimating Conference for certain purposes; specifying principals of the conference; revising criteria for financial impact statements; providing for redrafting of such statements by the conference under certain circumstances; requiring the Financial Impact Estimating Conference to produce a financial information statement and summary; specifying statement requirements; providing for distribution and publication of the financial information statement and summary; repealing s. 100.381, F.S., relating to fiscal impact statement requirements for amendments proposed other than by initiative; amending s. 101.161, F.S.; prescribing placement of the financial impact statement on the ballot; amending s. 101.62, F.S., relating to absentee ballots, to conform; amending s. 216.136, F.S.; conforming provisions to changes made by the act; providing procedures for commencing the financial impact statement development and review process for certain proposed initiatives; providing an effective date.

—was read the second time by title.

MOTION

On motion by Senator Wasserman Schultz, the rules were waived to allow the following amendment to be considered:

Senator Wasserman Schultz moved the following amendment which was adopted:

Amendment 1 (634166)—On page 5, line 6, following “appropriate” insert: *fiscal*

Pursuant to Rule 4.19, **CS for CS for SB 1700** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Atwater—

CS for CS for SB 2616—A bill to be entitled An act relating to water management district employees; creating s. 373.6055, F.S.; requiring water management districts with structure or facilities designated as “tier one” critical infrastructures by the Federal Bureau of Investigation to conduct fingerprint-based criminal history checks of current or prospective employees and other persons allowed regular access to restricted access areas pursuant to applicable security plans; authorizing water management districts with structures or facilities that are not designated as “tier one” critical infrastructure by the Federal Bureau of Investigation to conduct fingerprint-based criminal history checks of current or prospective employees and other persons allowed regular access to restricted access areas pursuant to applicable security plans; requiring additional criminal history checks; requiring that fingerprints of applicants and employees be submitted to the Department of Law Enforcement and the Federal Bureau of Investigation for processing; providing for costs of criminal history checks to be paid by water management districts, other employing entities, or by the individuals checked; requiring that a water management district’s security plan identify criminal history convictions or criminal history factors that disqualify applicants for employment and restricted area access; authorizing water management districts to establish procedures to appeal a denial of employment or access under certain circumstances; authorizing each water management district to grant temporary waivers to meet special or emergency needs of the water management district; providing offenses that disqualify a person from employment or access to a restricted access area; requiring that an individual remain free from subsequent convictions for 7 years before employment or authorized access to a restricted access area; authorizing each water management district to develop security plans; providing an effective date.

—was read the second time by title.

Senator Atwater moved the following amendment which was adopted:

Amendment 1 (041284)(with title amendment)—On page 2, line 26 through page 3, line 7, delete those lines and insert:

(1) *A water management district that has structures or facilities identified as critical infrastructure by the Regional Security Task Force created pursuant to s. 943.0312, shall conduct a fingerprint-based criminal history check for any current or prospective employee and others designated pursuant to the water management district’s security plan for buildings, facilities, and structures if those persons are allowed regular access to those buildings, facilities, or structures defined in the water management district’s security plan as restricted access areas.*

(2) *A water management district that has structures or facilities that are not identified as critical infrastructure by the Regional Security Task Force created pursuant to s. 943.0312, may*

And the title is amended as follows:

On page 1, lines 5-16, delete those lines and insert: structure or facilities identified as critical infrastructure by the Regional Security Task Force to conduct fingerprint-based criminal history checks of current or prospective employees and other persons allowed regular access to restricted access areas pursuant to applicable security plans; authorizing water management districts with structures or facilities that are

not identified as critical infrastructure by the Regional Security Task Force to conduct fingerprint-based

Pursuant to Rule 4.19, **CS for CS for SB 2616** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Crist—

SB 224—A bill to be entitled An act relating to imposition of a death sentence; creating s. 921.1415, F.S.; providing that only criminals who were 18 years of age or older at the time the crime was committed may be sentenced to death; amending s. 775.082, F.S., to conform; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **SB 224** was placed on the calendar of Bills on Third Reading.

On motion by Senator Haridopolos—

CS for CS for SB 2026—A bill to be entitled An act relating to regulation of professions under the Department of Business and Professional Regulation; amending s. 455.32, F.S.; revising the Management Privatization Act; providing definitions; authorizing the department, pursuant to board, commission, or council request, to establish and contract with a nonprofit corporation to perform support services specified pursuant to contract for the applicable profession; requiring development of a business case subject to executive and legislative approval; providing corporation organization, powers, duties, and staff; authorizing per diem and reimbursement for travel expenses; requiring adherence to the code of ethics for public officers and employees; providing sovereign immunity; providing for corporation boards of directors and for contract managers; providing contract requirements; establishing financing, reporting, recordkeeping, and audit requirements; providing for quarterly assessment and annual certification of contract compliance; providing requirements in the event any provision of the section is held unconstitutional; amending s. 455.2177, F.S.; revising requirements for the monitoring of continuing education compliance; removing provisions relating to privatization and dispute resolution; revising penalties for failure to comply with continuing education requirements; revising requirements for waiver of such monitoring; providing rulemaking authority; amending s. 455.2178, F.S.; revising reporting requirements for continuing education providers; removing provisions relating to private vendors; revising penalties for noncompliant continuing education providers; providing for conduct of investigations and prosecutions of noncompliant continuing education providers; providing rulemaking authority; amending s. 455.2179, F.S.; revising continuing education provider and course approval procedures; revising penalties for failing to teach approved course content; providing for conduct of investigations and prosecutions of noncompliant continuing education providers; providing rulemaking authority; amending s. 455.2281, F.S., relating to unlicensed activities; removing a cross-reference to conform; amending s. 481.205, F.S., relating to the Board of Architecture and Interior Design; removing a cross-reference to conform; providing an effective date.

—was read the second time by title.

MOTION

On motion by Senator Diaz de la Portilla, the rules were waived to allow the following amendments to be considered:

Senator Diaz de la Portilla moved the following amendments which were adopted:

Amendment 1 (533194)(with title amendment)—On page 23, between lines 18 and 19, insert:

Section 7. Present subsections (10), (11), and (12) of section 509.013, Florida Statutes, are renumbered subsections (11), (12), and (13), respectively, and a new subsection (10) is added to that section, to read:

509.013 Definitions.—As used in this chapter, the term:

(10) “Third party provider” means, for purposes of s. 509.049, any provider of an approved food safety training program that provides training or such a training program to a public food service establishment that is not under common ownership or control with the provider.

Section 8. Subsections (3), (4), and (5) of section 509.049, Florida Statutes, are amended, present subsection (6) of that section is redesignated as subsection (7), and new subsections (6) and (8) are added to that section, to read:

509.049 Food service employee training.—

(3) Any food safety training program established and administered to food service handler employees utilized at a licensed public food service establishment prior to July 1, 2000, shall ~~may~~ be submitted by the operator or the third party provider to the division for its review and approval on or before September 1, 2004. If the food safety training program is found to be in substantial compliance with the division’s required criteria and is approved by the division, nothing in this section shall preclude any other operator of a food service establishment from also utilizing the approved program or require the employees of any operator to receive training from or pay a fee to the division’s contracted provider. Review and approval by the division of a program or programs under this section shall include, but need not be limited to, verification that the licensed public food service establishment utilized the program prior to July 1, 2000, and the minimum food safety standards adopted by the division in accordance with this section.

(4) Approval of a program is subject to the provider’s continued compliance with the division’s minimum program standards. The division may conduct random audits of any approved programs to determine compliance and may audit any program if it has reason to believe a program is not in compliance with this section. The division may revoke a program’s approval if it finds a program is not in compliance with this section or the rules adopted under this section.

(5) It shall be the duty of ~~each the licensee of the~~ public food service establishment to provide training in accordance with the described rule to all food service employees of the public food service establishment ~~under the licensee’s supervision or control~~. The public food service establishment licensee may designate any a certified food service manager to perform this function as an agent of the licensee. Food service employees must receive certification within 60 days after employment. Certification pursuant to this section shall remain valid for 3 years. All public food service establishments must provide the division with proof of employee training upon request, including, but not limited to, at the time of any division inspection of the establishment. Proof of training for each food service employee shall include the name of the trained employee, the date of birth of the trained employee, the date the training occurred, and the approved food safety training program used.

(6)(a) Third party providers shall issue to a public food service establishment an original certificate for each employee certified by the provider and an original card to be provided to each certified employee. Such card or certificate shall be produced by the certified food service employee or by the public food service establishment, respectively, in its duly issued original form upon request of the division.

(b) Effective January 1, 2005, each third party provider shall provide the following information on each employee upon certification and recertification: the name of the certified food service employee, the employee’s date of birth, the employing food service establishment, the name of the certified food manager who conducted the training, the training date, and the certification expiration date. This information shall be reported electronically to the division, in a format prescribed by the division, within 30 days of certification or recertification. The division shall compile the information into an electronic database that is not directly or indirectly owned, maintained, or installed by any nongovernmental provider of food service training. A public food service establishment that trains its employees using its own in-house, proprietary food safety training program approved by the division, and which uses its own employees to provide this training, shall be exempt from the electronic reporting requirements of this paragraph, and from the card or certificate requirement of paragraph (a).

(7)(6) The division may adopt rules pursuant to ss. 120.536(1) and 120.54 necessary to administer this section. The rules may require:

(a) The use of application forms, which may require, but need not be limited to, the identification of training components of the program and an applicant affidavit attesting to the accuracy of the information provided in the application;

(b) *Third party* providers to maintain and electronically submit information concerning establishments where they provide training or training programs pursuant to this section;

(c) Specific subject matter related to food safety for use in training program components; and

(d) The *public food service establishment licensee* to be responsible for providing proof of employee training pursuant to this section, and the division may request production of such proof upon inspection of the establishment.

(8) *The following are violations for which the division may impose administrative fines of up to \$1,000 on a public food service establishment, or suspend or revoke the approval of a particular provider's use of a food safety training program:*

(a) *Failure of a public food service establishment to provide proof of training pursuant to subsection (5) upon request by the division or an original certificate to the division when required pursuant to paragraph (6)(a).*

(b) *Failure of a third party provider to submit required records pursuant to paragraph (6)(b) or to provide original certificates or cards to a public food service establishment or employee pursuant to paragraph (6)(a).*

(c) *Participating in falsifying any training record.*

(d) *Failure of the program to maintain the division's minimum program standards.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 2, line 24, after the semicolon (;) insert: amending s. 509.013, F.S.; defining the term "third party provider" for purposes of public lodging and public food service establishments; amending s. 509.049, F.S.; revising provisions regarding approval of foods safety training programs and responsibilities of public food service establishments, employees, and third party providers of training; revising rule-making authority; providing penalties;

Amendment 2 (192472)—In title, on page 1, line 2, after "professions" insert: and occupations

Pursuant to Rule 4.19, **CS for CS for SB 2026** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Fasano—

CS for SB 2158—A bill to be entitled An act relating to public records; amending s. 253.034, F.S.; providing a time-limited exemption from public records requirements for information regarding valuation of surplus state-owned land before the associated agreement for purchase, exchange, or disposal is first considered for approval by the Board of Trustees of the Internal Improvement Trust Fund; authorizing the Division of State Lands in the Department of Environmental Protection to disclose valuation information under certain circumstances, notwithstanding the confidentiality requirement; providing for future legislative review and repeal; providing a statement of public necessity; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **CS for SB 2158** was placed on the calendar of Bills on Third Reading.

On motion by Senator Campbell—

CS for SB 2054—A bill to be entitled An act relating to the designation and registration of sexual predators and sexual offenders; amending s. 775.21, F.S.; amending the definition of the term "conviction"; providing that an offender who has been designated as a sexually violent predator under the civil commitment proceedings provided in ch. 394, F.S., meets the criteria for designation as a sexual predator under the Florida Sexual Predators Act; providing that such offender shall be subject to the registration and notification requirements of the act; requiring the committing court of such offender to make a written finding that the offender is a sexual predator for purposes of the act; requiring the clerk to transmit a copy of the committing court's order to the Department of Law Enforcement within a time certain; clarifying circumstances related to the registration requirements applicable to sexual predators; clarifying that registration requirements apply each time the driver's license or identification card of a sexual predator is subject to renewal and also apply after each change in specified information; specifying registration and reporting requirements for sexual predators in circumstances where the predator has vacated or intends to vacate a permanent residence; specifying reporting requirements in circumstances where the sexual predator remains at or returns to a permanent residence; revising and clarifying the circumstances in which criminal penalties apply to sexual predators for acts or omissions related to registration; specifying venue for the prosecution of a sexual predator in circumstances involving acts or omissions concerning the failure to register as required; providing that an arrest, information, complaint, or arraignment related to charges of failure to register constitutes actual notice of the duty to register in certain circumstances; providing that the failure of a sexual predator to immediately register following such notice constitutes grounds for a subsequent charge; requiring any sexual predator who asserts, or intends to assert, a lack of notice of the duty to register as a defense to a charge of failure to immediately register as required; providing that a sexual predator who is charged with a subsequent failure to register may not assert the defense of a lack of notice of the duty to register; providing that registration following arrest, service, or arraignment related to a charge of failure to register is not a defense and does not relieve the sexual predator of criminal liability for the failure to register; conforming a cross-reference; amending s. 943.0435, F.S.; amending the definition of the term "convicted"; clarifying that registration requirements apply each time the driver's license or identification card of a sexual offender is subject to renewal and also apply after each change in specified information; specifying registration and reporting requirements for sexual offenders in circumstances where the offender has vacated or intends to vacate a permanent residence; specifying reporting requirements in circumstances where the sexual offender remains at or returns to a permanent residence; revising and clarifying the circumstances in which criminal penalties apply to sexual offenders for acts or omissions related to registration; specifying venue for the prosecution of a sexual offender in circumstances involving acts or omissions concerning the failure to register as required; providing that an arrest, information, complaint, or arraignment related to charges of failure to register constitutes actual notice of the duty to register in certain circumstances; providing that the failure of a sexual offender to immediately register following such notice constitutes grounds for a subsequent charge; requiring any sexual offender who asserts, or intends to assert, a lack of notice of the duty to register as a defense to a charge of failure to immediately register as required; providing that a sexual offender who is charged with a subsequent failure to register may not assert the defense of a lack of notice of the duty to register; providing that registration following arrest, service, or arraignment related to a charge of failure to register is not a defense and does not relieve the sexual offender of criminal liability for the failure to register; revising a cross-reference; amending s. 944.606, F.S.; amending the definition of the term "convicted"; amending s. 944.607, F.S.; amending the definition of the term "conviction"; clarifying circumstances relating to the registration requirements applicable to sexual offenders; revising and clarifying the circumstances in which criminal penalties apply to sexual offenders for acts or omissions related to registration; specifying venue for the prosecution of a sexual offender in circumstances involving acts or omissions concerning the failure to register as required; providing that an arrest, information, complaint, or arraignment related to charges of failure to register constitutes actual notice of the duty to register in certain circumstances; providing that the failure of a sexual offender to immediately register following such notice constitutes grounds for a subsequent charge; requiring any sexual offender who asserts, or intends to assert, a lack of notice of the duty to register as a defense to a charge of failure to register to immediately register as

required; providing that a sexual offender who is charged with a subsequent failure to register may not assert the defense of a lack of notice of the duty to register; providing that registration following arrest, service, or arraignment related to a charge of failure to register is not a defense and does not relieve the sexual offender of criminal liability for the failure to register; reenacting s. 775.13(5), F.S., relating to registration of convicted felons, to incorporate the amendment to ss. 775.21, 943.0435, and 944.607, F.S., in references thereto; reenacting s. 943.0436(2), F.S., relating to laws governing sexual predators and sexual offenders, to incorporate the amendments to ss. 943.0435, 944.606, and 944.607, F.S., in references thereto; reenacting s. 775.24(2), F.S., relating to laws governing sexual predators and sexual offenders, to incorporate the amendments to ss. 943.0435, 944.606, and 944.607, F.S., in references thereto; reenacting s. 775.25, F.S., relating to prosecutions for acts or omissions, to incorporate the amendments to ss. 775.21, 943.0435, 944.606, and 944.607, F.S., in references thereto; reenacting s. 775.261(3)(b), F.S., relating to the Florida Career Offender Registration Act, to incorporate the amendments to ss. 775.21, 943.0435, and 944.607, F.S., in references thereto; reenacting s. 921.0022(3)(f), F.S., relating to the Criminal Punishment Code, to incorporate the amendments to ss. 775.21 and 943.0435, F.S., in references thereto; reenacting s. 944.608(7), F.S., relating to notification to the Department of Law Enforcement of information on career offenders, to incorporate the amendments to ss. 775.21 and 944.607, F.S., in references thereto; reenacting s. 39.806(1)(d), F.S., relating to grounds for termination of parental rights, to incorporate the amendment to s. 775.21, F.S., in references thereto; reenacting s. 63.089(4)(b), F.S., relating to proceeding to termination of parental rights pending adoption, to incorporate the amendment to s. 775.21, F.S., in references thereto; reenacting s. 63.092(3), F.S., relating to reporting to the court of intended placement by an adoption entity, to incorporate the amendment to s. 775.21, F.S., in references thereto; reenacting s. 944.609(4), F.S., relating to notification of career offenders upon release to incorporate the amendment to s. 775.21, F.S., in references thereto; reenacting s. 947.1405(2)(c), F.S., relating to the conditional release program, to incorporate the amendment to s. 775.21, F.S., in references thereto; reenacting s. 948.12, F.S., relating to supervision of postprison release of violent offenders, to incorporate the amendments to s. 775.21, F.S., in references thereto; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **CS for SB 2054** was placed on the calendar of Bills on Third Reading.

SENATOR FASANO PRESIDING

On motion by Senator Peaden—

CS for CS for CS for SB 2910—A bill to be entitled An act relating to affordable health care; providing a popular name; providing purpose; amending s. 381.026, F.S.; requiring certain licensed facilities to provide public Internet access to certain financial information; amending s. 381.734, F.S.; including participation by health care providers, small businesses, and health insurers in the Healthy Communities, Healthy People Program; requiring the Department of Health to provide public Internet access to certain public health programs; requiring the department to monitor and assess the effectiveness of such programs; requiring a report; requiring the Office of Program Policy and Government Accountability to evaluate the effectiveness of such programs; requiring a report; amending s. 395.003, F.S.; prohibiting the Agency for Health Care Administration from issuing licenses for certain emergency departments located off the primary premises of a hospital before July 1, 2005; requiring a study and report to the Legislature; amending s. 395.1041, F.S.; authorizing hospitals to develop certain emergency room diversion programs; amending s. 395.301, F.S.; requiring certain licensed facilities to provide prospective patients certain estimates of charges for services; requiring such facilities to provide patients with certain bill verification information; providing for a fine for failure to provide such information; providing charge limitations; requiring such facilities to establish a patient question review and response methodology; providing requirements; requiring certain licensed facilities to provide public Internet access to certain financial information; providing an exception for specified rural hospitals; amending s. 408.061, F.S.; requiring the Agency for Health Care Administration to require health care facilities, health care providers, and health insurers to submit certain information; providing requirements; requiring the agency to adopt certain risk and severity

adjustment methodologies; requiring the agency to adopt certain rules; requiring certain information to be certified; amending s. 408.062, F.S.; requiring the agency to conduct certain health care costs and access research, analyses, and studies; expanding the scope of such studies to include collection of pharmacy retail price data, use of emergency departments, physician information, and Internet patient charge information availability; requiring publication of information collected on the Internet; requiring a report; requiring the agency to conduct additional data-based studies and make recommendations to the Legislature; requiring the agency to develop and implement a strategy to adopt and use electronic health records; authorizing the agency to develop rules to protect electronic records confidentiality; requiring a report to the Governor and Legislature; amending s. 408.05, F.S.; requiring the agency to develop a plan to make performance outcome and financial data available to consumers for health care services comparison purposes; requiring submittal of the plan to the Governor and Legislature; requiring the agency to update the plan; requiring the agency to make the plan available electronically; providing plan requirements; amending s. 409.9066, F.S.; requiring the agency to provide certain information relating to the Medicare prescription discount program; creating s. 465.0244, F.S.; requiring each pharmacy to make available on its Internet website a link to certain performance outcome and financial data of the Agency for Health Care Administration and a notice of the availability of such information; amending s. 627.6499, F.S.; requiring each health insurer to make available on its Internet website a link to certain performance outcome and financial data of the Agency for Health Care Administration and a notice in policies of the availability of such information; amending s. 641.54, F.S.; requiring health maintenance organizations to make certain insurance financial information available to subscribers; requiring health maintenance organizations to make available on its Internet website a link to certain performance outcome and financial data of the Agency for Health Care Administration and a notice in policies of the availability of such information; amending s. 408.7056, F.S.; renaming the Statewide Provider and Subscriber Assistance Program as the Subscriber Assistance Program; revising provisions to conform; expanding certain records availability provisions; revising membership provisions relating to a subscriber grievance hearing panel; providing hearing procedures; amending s. 641.3154, F.S., to conform to the renaming of the Subscriber Assistance Program; amending s. 641.511, F.S., to conform to the renaming of the Subscriber Assistance Program; adopting and incorporating by reference the Employee Retirement Income Security Act of 1974, as implemented by federal regulations; amending s. 641.58, F.S., to conform to the renaming of the Subscriber Assistance Program; amending s. 408.909, F.S.; expanding a definition of “health flex plan entity” to include public-private partnerships; making a pilot health flex plan program apply permanently statewide; providing additional program requirements; creating s. 381.0271, F.S.; providing definitions; creating the Florida Patient Safety Corporation, which shall be registered, incorporated, organized, and operated in compliance with ch. 617, F.S.; authorizing the corporation to create not-for-profit subsidiaries; specifying that the corporation is not an agency within the meaning of s. 20.03(11), F.S.; requiring the corporation to be subject to public meetings and records requirements; specifying that the corporation is not subject to the provisions of ch. 297, F.S., relating to procurement of personal property and services; providing a purpose for the corporation; establishing the membership of the board of directors of the corporation; requiring the formation of certain advisory committees for the corporation; requiring the Agency for Health Care Administration to provide assistance in establishing the corporation; specifying the powers and duties of the corporation; requiring annual reports; requiring the Office of Program Policy Analysis and Government Accountability, in consultation with the Agency for Health Care Administration and the Department of Health, to develop performance measures for the corporation; requiring a performance audit; requiring a report to the Governor and the Legislature; requiring the Patient Safety Center at the Florida State University College of Medicine to study the return on investment by hospitals from implementing computerized physician order entry and other information technologies related to patient safety; providing requirements for the study; requiring a report to the Governor and the Legislature; amending s. 395.1012, F.S.; providing additional duties of the patient safety committee at hospitals and other licensed facilities; requiring such facilities to adopt a plan to reduce medication errors and adverse drug events, including the use of computerized physician order entry and other information technologies; amending s. 409.91255, F.S.; expanding assistance to certain health centers to include community emergency room diversion programs and urgent care services; amending s. 627.410, F.S.; requiring insurers to file certain rates with the Office of Insurance Regulation; creating s. 627.6405, F.S.;

making legislative findings related to inappropriate utilization of emergency room care; requiring health insurers to take certain actions and authorizing higher copayments for certain uses of emergency departments; creating s. 627.64872, F.S.; providing legislative intent; creating the Florida Health Insurance Plan for certain purposes; providing definitions; providing requirements for operation of the plan; providing for a board of directors; providing for appointment of members; providing for terms; specifying service without compensation; providing for travel and per diem expenses; requiring a plan of operation; providing requirements; providing for powers of the plan; requiring reports to the Governor and Legislature; providing certain immunity from liability for plan obligations; authorizing the board to provide for indemnification of certain costs; requiring an annually audited financial statement; providing for eligibility for coverage under the plan; providing criteria; requirements, and limitations; specifying certain activity as an unfair trade practice; providing for a plan administrator; providing criteria; providing requirements; providing term limits for the plan administrator; providing duties; providing for paying the administrator; providing for funding mechanisms of the plan; providing for premium rates for plan coverage; providing rate limitations; specifying benefits under the plan; providing criteria, requirements, and limitations; providing for nonduplication of benefits; providing for annual and maximum lifetime benefits; providing for tax exempt status; providing for abolition of the Florida Comprehensive Health Association upon implementation of the plan; providing for enrollment in the plan of persons enrolled in the association; requiring insurers to pay certain assessments to the board for certain purposes; providing criteria, requirements, and limitations for such assessments; repealing ss. 627.6488, 627.6489, 627.649, 627.6492, 627.6494, 627.6496, and 627.6498, F.S., relating to the Florida Comprehensive Health Association, upon implementation of the plan; amending s. 627.662, F.S.; providing for application of certain claim payment methodologies and actions related to inappropriate use of emergency care to certain types of insurance; amending s. 627.6699, F.S.; revising provisions requiring small employer carriers to offer certain health benefit plans; preserving a right to open enrollment for certain small groups; requiring small employer carriers to file and provide coverage under certain high deductible plans; including high deductible plans under certain required plan provisions; providing a delayed effective date for certain filing requirements; creating the Small Employers Access Program; providing legislative intent; providing definitions; providing participation eligibility requirements and criteria; requiring the Office of Insurance Regulation to administer the program by selecting an insurer through competitive bidding; providing requirements; specifying insurer qualifications; providing duties of the insurer; providing a contract term; providing insurer reporting requirements; providing application requirements; providing for benefits under the program; requiring the office to annually report to the Governor and Legislature; providing for decreases in inappropriate use of emergency care; providing legislative intent; requiring health insurers to provide certain information electronically and develop community emergency department diversion programs; amending s. 627.9175, F.S.; requiring certain health insurers to annually report certain coverage information to the office; providing requirements; deleting certain reporting requirements; creating part I of ch. 636, F.S., relating to prepaid limited health services organization; amending s. 636.002, F.S.; providing a short title; amending s. 636.003, F.S.; revising the definition of the term "prepaid limited health services organization"; creating part II of ch. 636, F.S., relating to discount medical plan organization; providing a short title; providing definitions; requiring that a person be licensed before conducting business in this state as a discount medical plan organizations; providing for an application to receive a license; providing for the contents of the application; requiring each discount medical plan organization to create an Internet website; authorizing the Office of Insurance Regulation to investigate or examine a discount medical plan organization under certain conditions; specifying the permitted and prohibited activities of a discount medical plan organization; directing each discount medical plan organization to disclose certain specified information to members and prospective members; providing for contracts and agreements with providers and networks of providers; detailing the required contents of the contract or agreement; requiring each discount medical plan organization to file its proposed rates with the office; directing each discount medical plan organization to file an annual report with the office; specifying the contents of the report; providing for fines when a discount medical plan organization is delinquent in filing the annual report; requiring minimum capitalization; providing the circumstances and procedures when the office proposes to suspend or revoke the license of a discount medical plan organization; directing each discount medical

plan organization to maintain an up-to-date list of the names and addresses of the providers with whom it has a contract to deliver medical services; directing that the list be posted on the organization's website; providing for marketing plans; authorizing the office to adopt rules; providing for service of process; providing for a security deposit by each discount medical plan organization; providing criminal penalties for violations of the act; authorizing the office to seek temporary and permanent injunctive relief against a discount medical plan organization under certain conditions; providing civil remedies for any person injured by another acting in violation of the act; providing venue for a civil action; creating ss. 627.65626 and 627.6402, F.S.; providing for insurance rebates for healthy lifestyles; providing for rebate of certain premiums for participation in health wellness, maintenance, or improvement programs under certain circumstances; providing requirements; amending s. 641.31, F.S.; authorizing health maintenance organizations offering certain point-of-service riders to offer such riders to certain employers for certain employees; providing requirements and limitations; providing for application of certain claim payment methodologies to certain types of insurance; providing for rebate of certain premiums for participation in health wellness, maintenance, or improvement programs under certain circumstances; providing requirements; preserving certain rights to enrollment in certain health benefit coverage for certain groups under certain circumstances; repealing s. 408.02, F.S., relating to the development, endorsement, implementation, and evaluation of patient management practice parameters by the Agency for Health Care Administration; amending s. 766.309, F.S.; granting the administrative law judge exclusive jurisdiction to make factual determinations regarding certain notice requirements in medical negligence proceedings; authorizing the Agency for Health Care Administration to adopt rules; providing legislative intent; requiring the Auditor General to conduct a study of nursing home finances; specifying the issues to be studied; directing the Auditor General to report its findings to the Governor, the President of the Senate, and the Speaker of the House of Representatives by a specified date; requiring the Agency for Health Care Administration to conduct a survey of all nursing home operators; detailing the contents of the data survey; directing the agency to report its findings to the Governor, the President of the Senate, and the Speaker of the House of Representatives by a specified date; providing appropriations; providing effective dates.

—was read the second time by title.

Amendments were considered and adopted to conform **CS for CS for CS for SB 2910** to **HB 1629**.

Pending further consideration of **CS for CS for CS for SB 2910** as amended, on motion by Senator Peaden, by two-thirds vote **HB 1629** was withdrawn from the Committees on Health, Aging, and Long-Term Care; Banking and Insurance; Appropriations Subcommittee on Health and Human Services; and Appropriations.

On motion by Senator Peaden, by two-thirds vote—

HB 1629—A bill to be entitled An act relating to affordable health care; providing a popular name; providing purpose; amending s. 381.026, F.S.; requiring certain licensed facilities to provide public Internet access to certain financial information; providing a definition; amending s. 381.734, F.S.; including participation by health care providers, small businesses, and health insurers in the Healthy Communities, Healthy People Program; requiring the Department of Health to provide public Internet access to certain public health programs; requiring the department to monitor and assess the effectiveness of such programs; requiring a report; requiring the Office of Program Policy and Government Accountability to evaluate the effectiveness of such programs; requiring a report; amending s. 395.1041, F.S.; authorizing hospitals to develop certain emergency room diversion programs; amending s. 395.1055, F.S.; requiring licensed facilities to make certain patient charge and performance outcome data available on Internet websites; amending s. 395.1065, F.S.; authorizing the Agency for Health Care Administration to charge a fine for failure to provide such information; amending s. 395.301, F.S.; requiring certain licensed facilities to provide prospective patients certain estimates of charges for services; requiring such facilities to provide patients with certain bill verification information; providing for a fine for failure to provide such information; providing charge limitations; requiring such facilities to establish a patient question review and response methodology; providing requirements; requiring certain licensed facilities to provide public Internet access to certain financial information; requiring posting of a notice of the availability of such

information; amending s. 408.061, F.S.; requiring the Agency for Health Care Administration to require health care facilities, health care providers, and health insurers to submit certain information; providing requirements; requiring the agency to adopt certain risk and severity adjustment methodologies; requiring the agency to adopt certain rules; requiring certain information to be certified; amending s. 408.062, F.S.; requiring the agency to conduct certain health care costs and access research, analyses, and studies; expanding the scope of such studies to include collection of pharmacy retail price data, use of emergency departments, physician information, and Internet patient charge information availability; requiring a report; requiring the agency to conduct additional data-based studies and make recommendations to the Legislature; requiring the agency to develop and implement a strategy to adopt and use electronic health records; authorizing the agency to develop rules to protect electronic records confidentiality; requiring a report to the Governor and Legislature; amending s. 408.05, F.S.; requiring the agency to develop a plan to make performance outcome and financial data available to consumers for health care services comparison purposes; requiring submittal of the plan to the Governor and Legislature; requiring the agency to update the plan; requiring the agency to make the plan available electronically; providing plan requirements; amending s. 409.9066, F.S.; requiring the agency to provide certain information relating to the Medicare prescription discount program; amending s. 408.7056, F.S.; renaming the Statewide Provider and Subscriber Assistance Program as the Subscriber Assistance Program; revising provisions to conform; expanding certain records availability provisions; revising membership provisions relating to a subscriber grievance hearing panel; revising a list of grievances the panel may consider; providing hearing procedures; amending s. 641.3154, F.S., to conform to the renaming of the Subscriber Assistance Program; amending s. 641.511, F.S., to conform to the renaming of the Subscriber Assistance Program; adopting and incorporating by reference the Employee Retirement Income Security Act of 1974, as implemented by federal regulations; amending s. 641.58, F.S., to conform to the renaming of the Subscriber Assistance Program; amending s. 408.909, F.S.; expanding a definition of "health flex plan entity" to include public-private partnerships; making a pilot health flex plan program apply permanently statewide; providing additional program requirements; creating s. 381.0271, F.S.; providing definitions; creating the Florida Patient Safety Corporation; authorizing the corporation to create additional not-for-profit corporate subsidiaries for certain purposes; specifying application of public records and public meetings requirements; exempting the corporation and subsidiaries from public procurement provisions; providing purposes; providing for a board of directors; providing for membership; authorizing the corporation to establish certain advisory committees; providing for organization of the corporation; providing for meetings; providing powers and duties of the corporation; requiring the corporation to collect, analyze, and evaluate patient safety data and related information; requiring the corporation to establish a reporting system to identify and report near misses relating to patient safety; requiring the corporation to work with state agencies to develop electronic health records; providing for an active library of evidence-based medicine and patient safety practices; requiring the corporation to develop and recommend core competencies in patient safety and public education programs; requiring an annual report; providing report requirements; authorizing the corporation to seek funding and apply for grants; requiring the Office of Program Policy Analysis and Government Accountability, the Department of Health, and the Agency for Health Care Administration to develop performance standards to evaluate the corporation; amending s. 409.91255, F.S.; expanding assistance to certain health centers to include community emergency room diversion programs and urgent care services; amending s. 627.410, F.S.; requiring insurers to file certain rates with the Office of Insurance Regulation; creating s. 627.64872, F.S.; providing legislative intent; creating the Florida Health Insurance Plan for certain purposes; providing definitions; providing exclusions; providing requirements for operation of the plan; providing for a board of directors; providing for appointment of members; providing for terms; specifying service without compensation; providing for travel and per diem expenses; requiring a plan of operation; providing requirements; providing for powers of the plan; requiring reports to the Governor and Legislature; providing for an actuarial study; providing certain immunity from liability for plan obligations; authorizing the board to provide for indemnification of certain costs; requiring an annually audited financial statement; providing for eligibility for coverage under the plan; providing criteria, requirements, and limitations; specifying certain activity as an unfair trade practice; providing for a plan administrator; providing criteria; providing requirements; providing term limits for the plan administrator; providing duties; providing for

paying the administrator; providing for premium rates for plan coverage; providing rate limitations; providing for sources of additional revenue; specifying benefits under the plan; providing criteria, requirements, and limitations; providing for nonduplication of benefits; providing for annual and maximum lifetime benefits; providing for tax exempt status; providing for abolition of the Florida Comprehensive Health Association upon implementation of the plan; providing for continued operation of the Florida Comprehensive Health Association until adoption of a plan of operation for the Florida Health Insurance Plan; providing for enrollment in the plan of persons enrolled in the association; requiring insurers to pay certain assessments to the board for certain purposes; providing criteria, requirements, and limitations for such assessments; providing for repeal of ss. 627.6488, 627.6489, 627.649, 627.6492, 627.6494, 627.6496, and 627.6498, F.S., relating to the Florida Comprehensive Health Association, upon implementation of the plan; amending s. 627.662, F.S.; providing for application of certain claim payment methodologies to certain types of insurance; providing for certain actions relating to inappropriate utilization of emergency care; amending s. 627.6699, F.S.; revising provisions requiring small employer carriers to offer certain health benefit plans; preserving a right to open enrollment for certain small groups; requiring small employer carriers to file and provide coverage under certain high deductible plans; including high deductible plans and health reimbursement arrangements under certain required plan provisions; creating the Small Employers Access Program; providing legislative intent; providing definitions; providing participation eligibility requirements and criteria; requiring the Office of Insurance Regulation to administer the program by selecting an insurer through competitive bidding; providing requirements; specifying insurer qualifications; providing duties of the insurer; providing a contract term; providing insurer reporting requirements; providing application requirements; providing for benefits under the program; requiring the office to annually report to the Governor and Legislature; creating ss. 627.6405 and 641.31097, F.S.; providing for decreasing inappropriate use of emergency care; providing legislative findings and intent; requiring health maintenance organizations and providers to provide certain information electronically and develop community emergency department diversion programs; authorizing health maintenance organizations to require higher copayments for certain uses of emergency departments; amending s. 627.9175, F.S.; requiring certain health insurers to annually report certain coverage information to the office; providing requirements; deleting certain reporting requirements; retitling ch. 636, F.S.; designating ss. 636.002-636.067, F.S., as pt. I of ch. 636, F.S.; providing a part title; amending s. 636.003, F.S.; revising the definition of "prepaid limited health service organization" to exclude discount medical plan organizations; creating pt. II of ch. 636, F.S., consisting of ss. 636.202-636.244, F.S.; providing a part title; providing definitions; providing for regulation and operation of discount medical plan organizations; requiring corporate licensure before doing business as a discount medical plan; specifying application requirements; requiring license fees; providing for expiration and renewal of licenses; requiring such organizations to establish an Internet website; requiring publication of certain information on the website; specifying collection and deposit of the licensing fee; authorizing the office to examine or investigate the business affairs of such organizations; requiring examinations and investigations; authorizing the office to order production of documents and take statements; requiring organizations to pay certain expenses; specifying grounds for denial or revocation under certain circumstances; authorizing discount medical plan organizations to charge certain fees under certain circumstances; providing reimbursement requirements; prohibiting certain activities; requiring certain disclosures to prospective members; requiring provider agreements to provide services under a medical discount plan; providing agreement requirements; requiring forms and rates to be filed with the office; requiring annual reports to be filed with the office; providing requirements; providing for fines and administrative sanctions for failing to file annual reports; establishing minimum capital requirements; providing for suspension or revocation of licenses under certain circumstances; providing for suspension of enrollment of new members under certain circumstances; providing terms of suspensions; requiring notice of any change of an organization's name; requiring discount medical plan organizations to maintain provider names listings; specifying marketing requirements of discount medical plans; providing limitations; specifying fee disclosure requirements for bundling discount medical plans with other insurance products; authorizing the commission to adopt rules; applying insurer service of process requirements on discount medical plan organizations; requiring a security deposit; prohibiting levy on certain deposit assets or securities under certain circumstances; providing criminal penalties; authorizing the office to seek certain injunctive relief under

certain circumstances; providing limitations; providing for civil actions for damages for certain violations; providing for awards of court costs and attorney fees; specifying application of unauthorized insurer provisions of law to unlicensed discount medical plan organizations; creating ss. 627.65626 and 627.6402, F.S.; providing for insurance rebates for healthy lifestyles; providing for rebate of certain premiums for participation in health wellness, maintenance, or improvement programs under certain circumstances; providing requirements; amending s. 641.31, F.S.; authorizing health maintenance organizations offering certain point-of-service riders to offer such riders to certain employers for certain employees; providing requirements and limitations; providing for application of certain claim payment methodologies to certain types of insurance; providing for rebate of certain premiums for participation in health wellness, maintenance, or improvement programs under certain circumstances; providing requirements; creating s. 626.593, F.S.; providing fee and commission limitations for health insurance agents; requiring a written contract for compensation; providing contract requirements; requiring a rebate of commission under certain circumstances; amending ss. 626.191 and 626.201, F.S.; clarifying certain application requirements; preserving certain rights to enrollment in certain health benefit coverage programs for certain groups under certain circumstances; creating s. 465.0244, F.S.; requiring each pharmacy to make available on its Internet website a link to certain performance outcome and financial data of the Agency for Health Care Administration and a notice of the availability of such information; amending s. 627.6499, F.S.; requiring each health insurer to make available on its Internet website a link to certain performance outcome and financial data of the Agency for Health Care Administration and a notice in policies of the availability of such information; amending s. 641.54, F.S.; requiring health maintenance organizations to make certain insurance financial information available to subscribers; requiring health maintenance organizations to make available on its Internet website a link to certain performance outcome and financial data of the Agency for Health Care Administration and a notice in policies of the availability of such information; repealing s. 408.02, F.S., relating to the development, endorsement, implementation, and evaluation of patient management practice parameters by the Agency for Health Care Administration; providing appropriations; providing effective dates.

—a companion measure, was substituted for **CS for CS for CS for SB 2910** as amended and by two-thirds vote read the second time by title.

MOTION

On motion by Senator Cowin, the rules were waived to allow the following amendment to be considered:

Senator Cowin moved the following amendment which failed:

Amendment 1 (702990)(with title amendment)—Between lines 3623 and 3624, insert:

Section 42. *Improper use of social security numbers by a state agency.*—A state agency or entity acting on behalf of or in the place of a state agency may not:

(1) *Require any person to transmit his or her social security number over the Internet unless the connection is secure and the social security number is encrypted.*

(2) *Require any person to use his or her social security number to access an Internet website unless a password or unique personal identification number or other authentication device is also required to access the Internet website.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On line 13, after the semicolon (;) insert: prohibiting certain uses of social security numbers by state agencies;

On motion by Senator Peaden, further consideration of **HB 1629** was deferred.

MOTIONS

On motion by Senator Lee, the rules were waived and by two-thirds vote **SJR 566** was removed from the calendar of Bills on Third Reading and placed at the end of the Special Order Calendar to be considered this day.

On motion by Senator Lee, the rules were waived and the Secretary was directed to transmit all bills to the House of Representatives at the direction of the President.

On motion by Senator Peaden, the Senate resumed consideration of—

HB 1629—A bill to be entitled An act relating to affordable health care; providing a popular name; providing purpose; amending s. 381.026, F.S.; requiring certain licensed facilities to provide public Internet access to certain financial information; providing a definition; amending s. 381.734, F.S.; including participation by health care providers, small businesses, and health insurers in the Healthy Communities, Healthy People Program; requiring the Department of Health to provide public Internet access to certain public health programs; requiring the department to monitor and assess the effectiveness of such programs; requiring a report; requiring the Office of Program Policy and Government Accountability to evaluate the effectiveness of such programs; requiring a report; amending s. 395.1041, F.S.; authorizing hospitals to develop certain emergency room diversion programs; amending s. 395.1055, F.S.; requiring licensed facilities to make certain patient charge and performance outcome data available on Internet websites; amending s. 395.1065, F.S.; authorizing the Agency for Health Care Administration to charge a fine for failure to provide such information; amending s. 395.301, F.S.; requiring certain licensed facilities to provide prospective patients certain estimates of charges for services; requiring such facilities to provide patients with certain bill verification information; providing for a fine for failure to provide such information; providing charge limitations; requiring such facilities to establish a patient question review and response methodology; providing requirements; requiring certain licensed facilities to provide public Internet access to certain financial information; requiring posting of a notice of the availability of such information; amending s. 408.061, F.S.; requiring the Agency for Health Care Administration to require health care facilities, health care providers, and health insurers to submit certain information; providing requirements; requiring the agency to adopt certain risk and severity adjustment methodologies; requiring the agency to adopt certain rules; requiring certain information to be certified; amending s. 408.062, F.S.; requiring the agency to conduct certain health care costs and access research, analyses, and studies; expanding the scope of such studies to include collection of pharmacy retail price data, use of emergency departments, physician information, and Internet patient charge information availability; requiring a report; requiring the agency to conduct additional data-based studies and make recommendations to the Legislature; requiring the agency to develop and implement a strategy to adopt and use electronic health records; authorizing the agency to develop rules to protect electronic records confidentiality; requiring a report to the Governor and Legislature; amending s. 408.05, F.S.; requiring the agency to develop a plan to make performance outcome and financial data available to consumers for health care services comparison purposes; requiring submittal of the plan to the Governor and Legislature; requiring the agency to update the plan; requiring the agency to make the plan available electronically; providing plan requirements; amending s. 409.9066, F.S.; requiring the agency to provide certain information relating to the Medicare prescription discount program; amending s. 408.7056, F.S.; renaming the Statewide Provider and Subscriber Assistance Program as the Subscriber Assistance Program; revising provisions to conform; expanding certain records availability provisions; revising membership provisions relating to a subscriber grievance hearing panel; revising a list of grievances the panel may consider; providing hearing procedures; amending s. 641.3154, F.S., to conform to the renaming of the Subscriber Assistance Program; amending s. 641.511, F.S., to conform to the renaming of the Subscriber Assistance Program; adopting and incorporating by reference the Employee Retirement Income Security Act of 1974, as implemented by federal regulations; amending s. 641.58, F.S., to conform to the renaming of the Subscriber Assistance Program; amending s. 408.909, F.S.; expanding a definition of “health flex plan entity” to include public-private partnerships; making a pilot health flex plan program apply permanently statewide; providing additional program requirements; creating s. 381.0271,

F.S.; providing definitions; creating the Florida Patient Safety Corporation; authorizing the corporation to create additional not-for-profit corporate subsidiaries for certain purposes; specifying application of public records and public meetings requirements; exempting the corporation and subsidiaries from public procurement provisions; providing purposes; providing for a board of directors; providing for membership; authorizing the corporation to establish certain advisory committees; providing for organization of the corporation; providing for meetings; providing powers and duties of the corporation; requiring the corporation to collect, analyze, and evaluate patient safety data and related information; requiring the corporation to establish a reporting system to identify and report near misses relating to patient safety; requiring the corporation to work with state agencies to develop electronic health records; providing for an active library of evidence-based medicine and patient safety practices; requiring the corporation to develop and recommend core competencies in patient safety and public education programs; requiring an annual report; providing report requirements; authorizing the corporation to seek funding and apply for grants; requiring the Office of Program Policy Analysis and Government Accountability, the Department of Health, and the Agency for Health Care Administration to develop performance standards to evaluate the corporation; amending s. 409.91255, F.S.; expanding assistance to certain health centers to include community emergency room diversion programs and urgent care services; amending s. 627.410, F.S.; requiring insurers to file certain rates with the Office of Insurance Regulation; creating s. 627.64872, F.S.; providing legislative intent; creating the Florida Health Insurance Plan for certain purposes; providing definitions; providing exclusions; providing requirements for operation of the plan; providing for a board of directors; providing for appointment of members; providing for terms; specifying service without compensation; providing for travel and per diem expenses; requiring a plan of operation; providing requirements; providing for powers of the plan; requiring reports to the Governor and Legislature; providing for an actuarial study; providing certain immunity from liability for plan obligations; authorizing the board to provide for indemnification of certain costs; requiring an annually audited financial statement; providing for eligibility for coverage under the plan; providing criteria, requirements, and limitations; specifying certain activity as an unfair trade practice; providing for a plan administrator; providing criteria; providing requirements; providing term limits for the plan administrator; providing duties; providing for paying the administrator; providing for premium rates for plan coverage; providing rate limitations; providing for sources of additional revenue; specifying benefits under the plan; providing criteria, requirements, and limitations; providing for nonduplication of benefits; providing for annual and maximum lifetime benefits; providing for tax exempt status; providing for abolition of the Florida Comprehensive Health Association upon implementation of the plan; providing for continued operation of the Florida Comprehensive Health Association until adoption of a plan of operation for the Florida Health Insurance Plan; providing for enrollment in the plan of persons enrolled in the association; requiring insurers to pay certain assessments to the board for certain purposes; providing criteria, requirements, and limitations for such assessments; providing for repeal of ss. 627.6488, 627.6489, 627.649, 627.6492, 627.6494, 627.6496, and 627.6498, F.S., relating to the Florida Comprehensive Health Association, upon implementation of the plan; amending s. 627.662, F.S.; providing for application of certain claim payment methodologies to certain types of insurance; providing for certain actions relating to inappropriate utilization of emergency care; amending s. 627.6699, F.S.; revising provisions requiring small employer carriers to offer certain health benefit plans; preserving a right to open enrollment for certain small groups; requiring small employer carriers to file and provide coverage under certain high deductible plans; including high deductible plans and health reimbursement arrangements under certain required plan provisions; creating the Small Employers Access Program; providing legislative intent; providing definitions; providing participation eligibility requirements and criteria; requiring the Office of Insurance Regulation to administer the program by selecting an insurer through competitive bidding; providing requirements; specifying insurer qualifications; providing duties of the insurer; providing a contract term; providing insurer reporting requirements; providing application requirements; providing for benefits under the program; requiring the office to annually report to the Governor and Legislature; creating ss. 627.6405 and 641.31097, F.S.; providing for decreasing inappropriate use of emergency care; providing legislative findings and intent; requiring health maintenance organizations and providers to provide certain information electronically and develop community emergency department diversion programs; authorizing health maintenance organizations to require higher copayments for certain

uses of emergency departments; amending s. 627.9175, F.S.; requiring certain health insurers to annually report certain coverage information to the office; providing requirements; deleting certain reporting requirements; retitling ch. 636, F.S.; designating ss. 636.002-636.067, F.S., as pt. I of ch. 636, F.S.; providing a part title; amending s. 636.003, F.S.; revising the definition of "prepaid limited health service organization" to exclude discount medical plan organizations; creating pt. II of ch. 636, F.S., consisting of ss. 636.202-636.244, F.S.; providing a part title; providing definitions; providing for regulation and operation of discount medical plan organizations; requiring corporate licensure before doing business as a discount medical plan; specifying application requirements; requiring license fees; providing for expiration and renewal of licenses; requiring such organizations to establish an Internet website; requiring publication of certain information on the website; specifying collection and deposit of the licensing fee; authorizing the office to examine or investigate the business affairs of such organizations; requiring examinations and investigations; authorizing the office to order production of documents and take statements; requiring organizations to pay certain expenses; specifying grounds for denial or revocation under certain circumstances; authorizing discount medical plan organizations to charge certain fees under certain circumstances; providing reimbursement requirements; prohibiting certain activities; requiring certain disclosures to prospective members; requiring provider agreements to provide services under a medical discount plan; providing agreement requirements; requiring forms and rates to be filed with the office; requiring annual reports to be filed with the office; providing requirements; providing for fines and administrative sanctions for failing to file annual reports; establishing minimum capital requirements; providing for suspension or revocation of licenses under certain circumstances; providing for suspension of enrollment of new members under certain circumstances; providing terms of suspensions; requiring notice of any change of an organization's name; requiring discount medical plan organizations to maintain provider names listings; specifying marketing requirements of discount medical plans; providing limitations; specifying fee disclosure requirements for bundling discount medical plans with other insurance products; authorizing the commission to adopt rules; applying insurer service of process requirements on discount medical plan organizations; requiring a security deposit; prohibiting levy on certain deposit assets or securities under certain circumstances; providing criminal penalties; authorizing the office to seek certain injunctive relief under certain circumstances; providing limitations; providing for civil actions for damages for certain violations; providing for awards of court costs and attorney fees; specifying application of unauthorized insurer provisions of law to unlicensed discount medical plan organizations; creating ss. 627.65626 and 627.6402, F.S.; providing for insurance rebates for healthy lifestyles; providing for rebate of certain premiums for participation in health wellness, maintenance, or improvement programs under certain circumstances; providing requirements; amending s. 641.31, F.S.; authorizing health maintenance organizations offering certain point-of-service riders to offer such riders to certain employers for certain employees; providing requirements and limitations; providing for application of certain claim payment methodologies to certain types of insurance; providing for rebate of certain premiums for participation in health wellness, maintenance, or improvement programs under certain circumstances; providing requirements; creating s. 626.593, F.S.; providing fee and commission limitations for health insurance agents; requiring a written contract for compensation; providing contract requirements; requiring a rebate of commission under certain circumstances; amending ss. 626.191 and 626.201, F.S.; clarifying certain application requirements; preserving certain rights to enrollment in certain health benefit coverage programs for certain groups under certain circumstances; creating s. 465.0244, F.S.; requiring each pharmacy to make available on its Internet website a link to certain performance outcome and financial data of the Agency for Health Care Administration and a notice of the availability of such information; amending s. 627.6499, F.S.; requiring each health insurer to make available on its Internet website a link to certain performance outcome and financial data of the Agency for Health Care Administration and a notice in policies of the availability of such information; amending s. 641.54, F.S.; requiring health maintenance organizations to make certain insurance financial information available to subscribers; requiring health maintenance organizations to make available on its Internet website a link to certain performance outcome and financial data of the Agency for Health Care Administration and a notice in policies of the availability of such information; repealing s. 408.02, F.S., relating to the development, endorsement, implementation, and evaluation of patient management practice parameters by the Agency for Health Care Administration; providing appropriations; providing effective dates.

—which was previously considered this day.

MOTION

On motion by Senator Cowin, the rules were waived to allow the following amendment to be considered:

Senator Cowin moved the following amendment which failed:

Amendment 2 (115176)(with title amendment)—Between lines 3623 and 3624, insert:

Section 42. *Use of social security number on identification cards.*—*An entity that contracts with the state to provide health insurance coverage for state employees may not issue an identification card for use by a covered employee which:*

- (1) *Contains that employee's social security number, or*
- (2) *Contains that employee's social security number as part of another identifier, either by adding additional prefixes, suffixes, numbers, or letters.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On line 279, after the semicolon (;) insert: prohibiting the use of social security numbers as identification numbers on health insurance cards used by state employees;

Pursuant to Rule 4.19, **HB 1629** was placed on the calendar of Bills on Third Reading.

On motion by Senator Smith—

CS for SB 2060—A bill to be entitled An act relating to alcoholic beverage licenses; amending s. 565.02, F.S.; authorizing the issuance of a non-quota license to certain sporting and recreational lodges; requiring that serving hours conform to certain local ordinances; providing rule-making authority; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **CS for SB 2060** was placed on the calendar of Bills on Third Reading.

THE PRESIDENT PRESIDING

On motion by Senator Smith—

CS for SB 1074—A bill to be entitled An act relating to limitation of actions; amending s. 775.15, F.S.; authorizing the prosecution of specified sexual offenses within 1 year after the identity of the accused is or should have been established through analysis of DNA evidence, notwithstanding time limitations otherwise prescribed by law; providing for application; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **CS for SB 1074** was placed on the calendar of Bills on Third Reading.

On motion by Senator Bennett—

CS for CS for CS for SB 1174—A bill to be entitled An act relating to the 2005 Planning and Development Study Commission; creating the commission; providing for its membership and requirements for voting; providing for appointments by the Governor, the President of the Senate, and the Speaker of the House of Representatives; requiring the Secretary of Transportation, the Secretary of Community Affairs, the Secretary of Environmental Protection, the Commissioner of Agriculture, and the executive director of the Fish and Wildlife Conservation Commission, or their designees, to serve as ex officio nonvoting members; requiring the commission to review the state's growth management programs and laws and make recommendations; requiring public

hearings; requiring the Department of Community Affairs to provide staff support; providing for expiration of the commission; providing an appropriation; providing an effective date.

—was read the second time by title.

Senator Geller moved the following amendment which was adopted:

Amendment 1 (052966)—On page 2, line 26 through page 3, line 8, delete those lines and insert: *of 19 voting members, five appointed by the Governor, five appointed by the President of the Senate, and five appointed by the Speaker of the House of Representatives. In addition, the President of the Senate and the Speaker of the House of Representatives shall each appoint two members from their respective chambers to serve as voting members of the commission. The Governor shall select a chair from his or her appointees. The secretaries of the Department of Transportation, the Department of Community Affairs, and the Department of Environmental Protection, the Commissioner of Agriculture, and the executive director of the Fish and Wildlife Conservation Commission, or their designees, shall serve as nonvoting ex officio members of the commission.*

MOTION

On motion by Senator Bennett, the rules were waived to allow the following amendment to be considered:

Senator Bennett moved the following amendment which was adopted:

Amendment 2 (562730)(with title amendment)—On page 6, lines 19-21, delete those lines and redesignate subsequent sections.

And the title is amended as follows:

On page 1, lines 20 and 21, delete those lines and insert: expiration of the commission; providing an effective date.

Pursuant to Rule 4.19, **CS for CS for CS for SB 1174** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Siplin—

SB 1592—A bill to be entitled An act relating to education assessment instruments; amending s. 1008.23, F.S.; allowing a student's parent or guardian and an accompanying assistant to review the questions and the student's answers to those questions on the Florida Comprehensive Assessment Test and other state-required academic assessment tests; providing conditions to such review; requiring the Department of Education to ensure that the department and the school districts honor requests for such review; providing for damages for violations; providing for costs and attorney's fees incurred in seeking compliance and payment of damages; providing for applicability; providing an effective date.

—was read the second time by title.

Senators Siplin, Constantine, Wilson and Villalobos offered the following amendment which was moved by Senator Siplin:

Amendment 1 (511802)(with title amendment)—On page 1, line 31 through page 2, line 20, delete those lines and insert: *Education. However, a student's parent, accompanied by the student, may review, at the student's school at which the student was enrolled when the student was administered the Florida Comprehensive Assessment Test, the questions on each section of the Florida Comprehensive Assessment Test as well as the student's answers to those questions, under the following conditions:*

- (1) *The student must have failed to earn a passing score on the grade 10 Florida Comprehensive Assessment Test or failed to score at Level 2 or higher on the Florida Comprehensive Assessment Test in reading for grade 3.*
- (2) *No recording or copying of the assessment may be made.*
- (3) *A school administrator, as defined in s. 1012.01(3)(c), or a representative of the Department of Education must be present at all times when the assessment is reviewed.*

- (4) The student or student's parent may not review the assessment more than one time.
- (5) No other individual is authorized to attend the review.
- (6) The assessment was not administered to the student more than 2 years before the review.
- (7) The student or student's parent may not remove the assessment from the reviewing location.
- (8) The student, the student's parent, or the school administrator may not take any notes during the review.
- (9) The parent requests the review subsequent to the determination of the student's score and within 14 days following the determination of the student's score.

The Department of Education shall ensure that the assessment questions and the student's answers are provided for the requested review within 30 days following the complete scoring of the assessment upon proper request by the parent. The district school boards shall notify eligible parents of the review option and the procedures for the review. The State Board of Education shall adopt rules pursuant to ss. 120.536(1) and 120.54 to administer this section. If the review request is not met in accordance with this section, the parent is entitled to reasonable attorney's fees and costs incurred by the parent in obtaining compliance with this section.

Section 2. Subsection (9) of section 1008.22, Florida Statutes, is amended to read:

1008.22 Student assessment program for public schools.—

(9) EQUIVALENCIES FOR STANDARDIZED TESTS.—

(a) The Commissioner of Education shall determine the comparable validity of other available standardized tests, including the SAT, ACT, College Placement Test, PSAT, PLAN, and tests used for entry into the military. If such tests are deemed to be valid and reliable measures, the commissioner shall approve the use of the SAT and ACT such tests as alternative alternate assessments to the grade 10 FCAT for the 2003-2004 2002-2003 school year. Students who attain scores on the SAT or ACT which that equate to the passing scores on the grade 10 FCAT for purposes of high school graduation on any of the approved alternative assessments shall satisfy the assessment requirement for a standard high school diploma as provided in s. 1003.43(5)(a) for the 2003-2004 2002-2003 school year graduating class if the students meet the requirement in paragraph (b). Prior to the application of these alternative assessments in subsequent school years, the Legislature shall review the continued use of these alternative tests.

(b) A student must take the grade 10 FCAT for a total of three times without earning a passing score in order to use the scores on the alternative assessments in paragraph (a).

Section 3. Subsection (1) of section 1003.433, Florida Statutes, is amended to read:

1003.433 Learning opportunities for out-of-state and out-of-country transfer students and students needing additional instruction to meet high school graduation requirements.—

(1) Students who enter a Florida public school at the eleventh or twelfth grade from out of state or from a foreign country shall not be required to spend additional time in a Florida public school in order to meet the high school course requirements if the student has met all requirements of the school district, state, or country from which he or she is transferring. Such students who are not proficient in English should receive immediate and intensive instruction in English language acquisition. However, to receive a standard high school diploma, a transfer student must:

- (a) Earn a 2.0 grade point average; and
- (b) Pass the grade 10 FCAT required in s. 1008.22(3), if the student is an eleventh grade student; or
- (c) Beginning in the 2004-2005 school year, attain scores on the SAT or ACT which equate to the passing scores on the grade 10 FCAT, if the

student is a twelfth grade student ~~an alternate assessment as described in s. 1008.22(9).~~

Section 4. Section 1008.301, Florida Statutes, as created by section 2 of chapter 2003-80, Laws of Florida, is repealed.

Section 5. This act shall take effect upon becoming a law, except that section 1 of this act shall take effect July 1, 2004, and shall apply to each Florida Comprehensive Assessment Test administered after July 1, 2004.

And the title is amended as follows:

On page 1, lines 4-15, delete those lines and insert: authorizing a student's parent and the accompanying student to review the questions and the student's answers to those questions on the Florida Comprehensive Assessment Test; providing restrictions on the review; requiring the Department of Education to honor the requests within a certain time period; requiring that district school boards notify eligible parents; requiring the State Board of Education to adopt rules; authorizing reasonable attorney's fees and costs under certain circumstances; amending s. 1008.22, F.S.; delaying the date by which the Commissioner of Education must approve the use of specified standardized tests as an alternative to the grade 10 Florida Comprehensive Assessment Test (FCAT); allowing passage of the alternative tests to satisfy the assessment requirement for students graduating from high school in the 2003-2004 school year, subject to certain conditions; amending s. 1003.433, F.S.; allowing passage of alternate assessments in lieu of the grade 10 FCAT for certain transfer students subject to certain conditions beginning in the 2004-2005 school year; repealing s. 1008.301, F.S., relating to concordance studies by the State Board of Education; providing for

MOTION

On motion by Senator Siplin, the rules were waived to allow the following amendment to be considered:

Senator Siplin moved the following amendment to **Amendment 1** which was adopted:

Amendment 1A (922622)(with title amendment)—On page 1, delete line 22 and insert: *questions on each section of the criterion-referenced portion of the Florida Comprehensive*

And the title is amended as follows:

On page 5, delete line 3 and insert: the criterion-referenced portion of the Florida Comprehensive Assessment Test;

Amendment 1 as amended was adopted.

Pursuant to Rule 4.19, **SB 1592** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Sebesta—

CS for SB 1600—A bill to be entitled An act relating to public construction bonds; amending s. 255.05, F.S.; revising requirements for the form used for public construction bonds; requiring payment provisions of public construction bonds to be construed as statutory bonds; requiring payment bond forms to reference notice and time limitation provisions; providing an effective date.

—was read the second time by title.

Senator Bennett moved the following amendment:

Amendment 1 (814636)—On page 1, lines 13-16, delete those lines and insert:

Section 1. Section 218.70, Florida Statutes, is amended to read:

218.70 *Popular name* ~~Short title.~~—This part may be cited as the *“Local Government Florida Prompt Payment Act.”*

Section 2. Subsections (2), (6), and (7) of section 218.72, Florida Statutes, are amended, and subsection (10) is added to that section, to read:

218.72 Definitions.—As used in this part:

(2) "Local governmental entity" means a county or municipal government, school board, school district, authority, special taxing district, other political subdivision, or any office, board, bureau, commission, department, branch, division, or institution thereof ~~or any project supported by county or municipal funds.~~

(6) "Vendor" means any person who sells goods or services, sells or leases personal property, or leases real property *directly* to a local governmental entity. *The term includes any person who provides waste-hauling services to residents or businesses located within the boundaries of a local government pursuant to a contract or local ordinance.*

(7) "Construction services" means all labor, services, and materials provided in connection with the construction, alteration, repair, demolition, reconstruction, or any other improvements to real property ~~that require a license under parts I and II of chapter 489.~~

(10) "Contractor" or "provider of construction services" means any person who contracts directly with a local governmental entity to provide construction services.

Section 3. Subsection (6) of section 218.735, Florida Statutes, is amended, present subsection (7) of that section is redesignated as subsection (9), and new subsections (7) and (8) are added to that section, to read:

218.735 Timely payment for purchases of construction services.—

(6) When a contractor receives payment from a local governmental entity for labor, services, or materials furnished by subcontractors and suppliers hired by the contractor, the contractor shall remit payment due to those subcontractors and suppliers within 10 ~~15~~ days after the contractor's receipt of payment. When a subcontractor receives payment from a contractor for labor, services, or materials furnished by subcontractors and suppliers hired by the subcontractor, the subcontractor shall remit payment due to those subcontractors and suppliers within 7 ~~15~~ days after the subcontractor's receipt of payment. Nothing herein shall prohibit a contractor or subcontractor from disputing, pursuant to the terms of the relevant contract, all or any portion of a payment alleged to be due to another party. ~~In the event of such a dispute, the contractor or subcontractor may withhold the disputed portion of any such payment if the contractor or subcontractor notifies the party whose payment is disputed, in writing, of the amount in dispute and the actions required to cure the dispute. The contractor or subcontractor must pay all undisputed amounts due within the time limits imposed by this section.~~

(7)(a) *Each contract for construction services between a local governmental entity and a contractor must provide for the development of a list of items required to render complete, satisfactory, and acceptable the construction services purchased by the local governmental entity. The contract must specify the process for the development of the list, including responsibilities of the local governmental entity and the contractor in developing and reviewing the list and a reasonable time for developing the list, as follows:*

1. *For construction projects with an estimated cost of less than \$10 million, within 30 calendar days after reaching substantial completion of the construction services purchased as defined in the contract, or, if not defined in the contract, upon reaching beneficial occupancy or use; or*

2. *For construction projects with an estimated cost of \$10 million or more, within 30 calendar days, unless otherwise extended by contract not to exceed 60 calendar days, after reaching substantial completion of the construction services purchased as defined in the contract, or, if not defined in the contract, upon reaching beneficial occupancy or use.*

(b) *If the contract between the local governmental entity and the contractor relates to the purchase of construction services on more than one building or structure, or involves a multiphased project, the contract shall provide for the development of a list of items required to render complete, satisfactory, and acceptable all the construction services purchased pursuant to the contract for each building, structure, or phase of the project within the time limitations provided in paragraph (a).*

(c) *The failure to include any corrective work or pending items not yet completed on the list developed pursuant to this subsection does not alter the responsibility of the contractor to complete all the construction services purchased pursuant to the contract.*

(d) *Upon completion of all items on the list, the contractor may submit a payment request for all remaining retainage withheld by the local governmental entity pursuant to this section. If a good-faith dispute exists as to whether one or more items identified on the list have been completed pursuant to the contract, the local governmental entity may continue to withhold an amount not to exceed 150 percent of the total costs to complete such items.*

(e) *All items that require correction under the contract and that are identified after the preparation and delivery of the list remain the obligation of the contractor as defined by the contract.*

(f) *Warranty items may not affect the final payment of retainage as provided in this section or as provided in the contract between the contractor and its subcontractors and suppliers.*

(g) *Retainage may not be held by a local governmental entity or a contractor to secure payment of insurance premiums under a consolidated insurance program or series of insurance policies issued to a local governmental entity or a contractor for a project or group of projects, and the final payment of retainage as provided in this section may not be delayed pending a final audit by the local governmental entity's or contractor's insurance provider.*

(h) *If a local governmental entity fails to comply with its responsibilities to develop the list required under paragraph (a) or paragraph (b), as defined in the contract, within the time limitations provided in paragraph (a), the contractor may submit a payment request for all remaining retainage withheld by the local governmental entity pursuant to this section. The local governmental entity need not pay or process any payment request for retainage if the contractor has, in whole or in part, failed to cooperate with the local governmental entity in the development of the list or failed to perform its contractual responsibilities, if any, with regard to the development of the list or if paragraph (8)(f) applies.*

(8)(a) *With regard to any contract for construction services, a local governmental entity may withhold from each progress payment made to the contractor an amount not exceeding 10 percent of the payment as retainage to ensure the satisfactory completion of the construction services purchased pursuant to the contract until 50-percent completion of such services.*

(b) *After 50-percent completion of the construction services purchased pursuant to the contract, the local governmental entity must reduce to 5 percent the amount of retainage withheld from each subsequent progress payment made to the contractor. For purposes of this subsection, the term "50-percent completion" has the meaning set forth in the contract between the local governmental entity and the contractor, or, if not defined in the contract, the point at which the local governmental entity has expended 50 percent of the total cost of the construction services purchased as identified in the contract together with all costs associated with existing change orders and other additions or modifications to the construction services provided for in the contract. However, notwithstanding this subsection, a municipality with a population of 25,000 or fewer, or a county with a population of 100,000 or fewer, may withhold retainage in an amount not exceeding 10 percent of each progress payment made to the contractor until final completion and acceptance of the project by the local governmental entity.*

(c) *After 50-percent completion of the construction services purchased pursuant to the contract, the contractor may elect to withhold retainage from payments to its subcontractors at a rate higher than 5 percent. The specific amount to be withheld must be determined on a case-by-case basis and must be based on the contractor's assessment of the subcontractor's past performance, the likelihood that such performance will continue, and the contractor's ability to rely on other safeguards. The contractor shall notify the subcontractor, in writing, of its determination to withhold more than 5 percent of the progress payment and the reasons for making that determination, and the contractor may not request the release of such retained funds from the local governmental entity.*

(d) *After 50-percent completion of the construction services purchased pursuant to the contract, the contractor may present to the local governmental entity a payment request for up to one-half of the retainage held by the local governmental entity. The local governmental entity shall promptly make payment to the contractor, unless the local governmental entity has grounds, pursuant to paragraph (f), for withholding the payment of retainage. If the local governmental entity makes payment of retainage to the contractor under this paragraph which is attributable to*

the labor, services, or materials supplied by one or more subcontractors or suppliers, the contractor shall timely remit payment of such retainage to those subcontractors and suppliers.

(e) This section does not prohibit a local governmental entity from withholding retainage at a rate less than 10 percent of each progress payment, from incrementally reducing the rate of retainage pursuant to a schedule provided for in the contract, or from releasing at any point all or a portion of any retainage withheld by the local governmental entity which is attributable to the labor, services, or materials supplied by the contractor or by one or more subcontractors or suppliers. If a local governmental entity makes any payment of retainage to the contractor which is attributable to the labor, services, or materials supplied by one or more subcontractors or suppliers, the contractor shall timely remit payment of such retainage to those subcontractors and suppliers.

(f) This section does not require the local governmental entity to pay or release any amounts that are the subject of a good-faith dispute, the subject of an action brought pursuant to s. 255.05, or otherwise the subject of a claim or demand by the local governmental entity or contractor.

(g) The time limitations set forth in this section for payment of payment requests apply to any payment request for retainage made pursuant to this section.

(h) Paragraphs (a)-(d) do not apply to construction services purchased by a local governmental entity which are paid for, in whole or in part, with federal funds and are subject to federal grantor laws and regulations or requirements that are contrary to any provision of the Local Government Prompt Payment Act.

(i) This subsection does not apply to any construction services purchased by a local governmental entity if the total cost of the construction services purchased as identified in the contract is \$200,000 or less.

Section 4. Section 255.0705, Florida Statutes, is created to read:

255.0705 *Popular name.*—Sections 255.0705-255.078 may be cited as the “Florida Prompt Payment Act.”

Section 5. Subsections (2) and (3) of section 255.071, Florida Statutes, are amended to read:

255.071 Payment of subcontractors, sub-subcontractors, materialmen, and suppliers on construction contracts for public projects.—

(2) The failure to pay any undisputed obligations for such labor, services, or materials within 30 days after the date the labor, services, or materials were furnished and payment for such labor, services, or materials became due, or within the time limitations set forth in s. 255.073(3) 30 days after the date payment for such labor, services, or materials is received, whichever last occurs, shall entitle any person providing such labor, services, or materials to the procedures specified in subsection (3) and the remedies provided in subsection (4).

(3) Any person providing labor, services, or materials for the construction of a public building, for the prosecution and completion of a public work, or for repairs upon a public building or public work improvements to real property may file a verified complaint alleging:

(a) The existence of a contract for providing such labor, services, or materials to improve real property.

(b) A description of the labor, services, or materials provided and alleging that the labor, services, or materials were provided in accordance with the contract.

(c) The amount of the contract price.

(d) The amount, if any, paid pursuant to the contract.

(e) The amount that remains unpaid pursuant to the contract and the amount thereof that is undisputed.

(f) That the undisputed amount has remained due and payable pursuant to the contract for more than 30 days after the date the labor or services were accepted or the materials were received.

(g) That the person against whom the complaint was filed has received payment on account of the labor, services, or materials described

in the complaint and, as of the date the complaint was filed, has failed to make payment within the time limitations set forth in s. 255.073(3) more than 30 days prior to the date the complaint was filed.

Section 6. Section 255.072, Florida Statutes, is created to read:

255.072 *Definitions.*—As used in ss. 255.073-255.078, the term:

(1) “Agent” means project architect, project engineer, or any other agency or person acting on behalf of a public entity.

(2) “Construction services” means all labor, services, and materials provided in connection with the construction, alteration, repair, demolition, reconstruction, or any other improvements to real property. The term “construction services” does not include contracts or work performed for the Department of Transportation.

(3) “Contractor” means any person who contracts directly with a public entity to provide construction services.

(4) “Payment request” means a request for payment for construction services which conforms with all statutory requirements and with all requirements specified by the public entity to which the payment request is submitted.

(5) “Public entity” means the state, or any office, board, bureau, commission, department, branch, division, or institution thereof, but does not include a local governmental entity as defined in s. 218.72.

(6) “Purchase” means the purchase of construction services.

Section 7. Section 255.073, Florida Statutes, is created to read:

255.073 *Timely payment for purchases of construction services.*—

(1) Except as otherwise provided in ss. 255.072-255.078, s. 215.422 governs the timely payment for construction services by a public entity.

(2) If a public entity disputes a portion of a payment request, the undisputed portion must be timely paid.

(3) When a contractor receives payment from a public entity for labor, services, or materials furnished by subcontractors and suppliers hired by the contractor, the contractor shall remit payment due to those subcontractors and suppliers within 10 days after the contractor’s receipt of payment. When a subcontractor receives payment from a contractor for labor, services, or materials furnished by subcontractors and suppliers hired by the subcontractor, the subcontractor shall remit payment due to those subcontractors and suppliers within 7 days after the subcontractor’s receipt of payment. This subsection does not prohibit a contractor or subcontractor from disputing, pursuant to the terms of the relevant contract, all or any portion of a payment alleged to be due to another party if the contractor or subcontractor notifies the party whose payment is disputed, in writing, of the amount in dispute and the actions required to cure the dispute. The contractor or subcontractor must pay all undisputed amounts due within the time limits imposed by this subsection.

(4) All payments due for the purchase of construction services and not made within the applicable time limits shall bear interest at the rate specified in s. 215.422. After July 1, 2005, such payments shall bear interest at the rate of 1 percent per month, to the extent that the Chief Financial Officer’s replacement project for the state’s accounting and cash management systems (Project ASPIRE) is operational for the particular affected public entities. After January 1, 2006, all such payments due from public entities shall bear interest at the rate of 1 percent per month.

Section 8. Section 255.074, Florida Statutes, is created to read:

255.074 *Procedures for calculation of payment due dates.*—

(1) Each public entity shall establish procedures whereby each payment request received by the public entity is marked as received on the date on which it is delivered to an agent or employee of the public entity or of a facility or office of the public entity.

(2) If the terms under which a purchase is made allow for partial deliveries and a payment request is submitted for a partial delivery, the time for payment for the partial delivery must be calculated from the time of the partial delivery and the submission of the payment request.

(3) A public entity must submit a payment request to the Chief Financial Officer for payment no more than 20 days after receipt of the payment request.

Section 9. Section 255.075, Florida Statutes, is created to read:

255.075 Mandatory interest.—A contract between a public entity and a contractor may not prohibit the collection of late payment interest charges authorized under s. 255.073(4).

Section 10. Section 255.076, Florida Statutes, is created to read:

255.076 Improper payment request; resolution of disputes.— In an action to recover amounts due for construction services purchased by a public entity, the court shall award court costs and reasonable attorney's fees, including fees incurred through any appeal, to the prevailing party, if the court finds that the nonprevailing party withheld any portion of the payment that is the subject of the action without any reasonable basis in law or fact to dispute the prevailing party's claim to those amounts.

Section 11. Section 255.077, Florida Statutes, is created to read:

255.077 Project closeout and payment of retainage.—

(1) Each contract for construction services between a public entity and a contractor must provide for the development of a list of items required to render complete, satisfactory, and acceptable the construction services purchased by the public entity. The contract must specify the process for the development of the list, including responsibilities of the public entity and the contractor in developing and reviewing the list and a reasonable time for developing the list, as follows:

1. For construction projects with an estimated cost of less than \$10 million, within 30 calendar days after reaching substantial completion of the construction services purchased as defined in the contract, or, if not defined in the contract, upon reaching beneficial occupancy or use; or

2. For construction projects with an estimated cost of \$10 million or more, within 30 calendar days, unless otherwise extended by contract not to exceed 60 calendar days, after reaching substantial completion of the construction services purchased as defined in the contract, or, if not defined in the contract, upon reaching beneficial occupancy or use.

(2) If the contract between the public entity and the contractor relates to the purchase of construction services on more than one building or structure, or involves a multiphased project, the contract shall provide for the development of a list of items required to render complete, satisfactory, and acceptable all the construction services purchased pursuant to the contract for each building, structure, or phase of the project within the time limitations provided in subsection (1).

(3) The failure to include any corrective work or pending items not yet completed on the list developed pursuant to subsection (1) or subsection (2) does not alter the responsibility of the contractor to complete all the construction services purchased pursuant to the contract.

(4) Upon completion of all items on the list, the contractor may submit a payment request for all remaining retainage withheld by the public entity pursuant to s. 255.078. If a good-faith dispute exists as to whether one or more items identified on the list have been completed pursuant to the contract, the public entity may continue to withhold an amount not to exceed 150 percent of the total costs to complete such items.

(5) All items that require correction under the contract and that are identified after the preparation and delivery of the list remain the obligation of the contractor as defined by the contract.

(6) Warranty items may not affect the final payment of retainage as provided in this section or as provided in the contract between the contractor and its subcontractors and suppliers.

(7) Retainage may not be held by a public entity or a contractor to secure payment of insurance premiums under a consolidated insurance program or series of insurance policies issued to a public entity or a contractor for a project or group of projects, and the final payment of retainage as provided in this section may not be delayed pending a final audit by the public entity's or contractor's insurance provider.

(8) If a public entity fails to comply with its responsibilities to develop the list required under subsection (1) or subsection (2), as defined in the

contract, within the time limitations provided in subsection (1), the contractor may submit a payment request for all remaining retainage withheld by the public entity pursuant to s. 255.078. The public entity need not pay or process any payment request for retainage if the contractor has, in whole or in part, failed to cooperate with the public entity in the development of the list or failed to perform its contractual responsibilities, if any, with regard to the development of the list or if s. 255.078(6) applies.

Section 12. Section 255.078, Florida Statutes, is created to read:

255.078 Public construction retainage.—

(1) With regard to any contract for construction services, a public entity may withhold from each progress payment made to the contractor an amount not exceeding 10 percent of the payment as retainage to ensure the satisfactory completion of the construction services purchased pursuant to the contract until 50-percent completion of such services.

(2) After 50-percent completion of the construction services purchased pursuant to the contract, the public entity must reduce to 5 percent the amount of retainage withheld from each subsequent progress payment made to the contractor. For purposes of this section, the term "50-percent completion" has the meaning set forth in the contract between the public entity and the contractor, or, if not defined in the contract, the point at which the public entity has expended 50 percent of the total cost of the construction services purchased as identified in the contract together with all costs associated with existing change orders and other additions or modifications to the construction services provided for in the contract.

(3) After 50-percent completion of the construction services purchased pursuant to the contract, the contractor may elect to withhold retainage from payments to its subcontractors at a rate higher than 5 percent. The specific amount to be withheld must be determined on a case-by-case basis and must be based on the contractor's assessment of the subcontractor's past performance, the likelihood that such performance will continue, and the contractor's ability to rely on other safeguards. The contractor shall notify the subcontractor, in writing, of its determination to withhold more than 5 percent of the progress payment and the reasons for making that determination, and the contractor may not request the release of such retained funds from the public entity.

(4) After 50-percent completion of the construction services purchased pursuant to the contract, the contractor may present to the public entity a payment request for up to one-half of the retainage held by the public entity. The public entity shall promptly make payment to the contractor, unless the public entity has grounds, pursuant to subsection (6), for withholding the payment of retainage. If the public entity makes payment of retainage to the contractor under this subsection which is attributable to the labor, services, or materials supplied by one or more subcontractors or suppliers, the contractor shall timely remit payment of such retainage to those subcontractors and suppliers.

(5) Neither this section nor s. 255.077 prohibits a public entity from withholding retainage at a rate less than 10 percent of each progress payment, from incrementally reducing the rate of retainage pursuant to a schedule provided for in the contract, or from releasing at any point all or a portion of any retainage withheld by the public entity which is attributable to the labor, services, or materials supplied by the contractor or by one or more subcontractors or suppliers. If a public entity makes any payment of retainage to the contractor which is attributable to the labor, services, or materials supplied by one or more subcontractors or suppliers, the contractor shall timely remit payment of such retainage to those subcontractors and suppliers.

(6) Neither this section nor s. 255.077 requires the public entity to pay or release any amounts that are the subject of a good-faith dispute, the subject of an action brought pursuant to s. 255.05, or otherwise the subject of a claim or demand by the public entity or contractor.

(7) The same time limits for payment of a payment request apply regardless of whether the payment request is for, or includes, retainage.

(8) Subsections (1)-(4) do not apply to construction services purchased by a public entity which are paid for, in whole or in part, with federal funds and are subject to federal grantor laws and regulations or requirements that are contrary to any provision of the Florida Prompt Payment Act.

(9) This section does not apply to any construction services purchased by a public entity if the total cost of the construction services purchased as identified in the contract is \$200,000 or less.

NOTICE OF CONTEST OF CLAIM AGAINST PAYMENT BOND

To: (Name and address of claimant)

You are notified that the undersigned contests your notice of nonpayment, dated, and served on the undersigned on, and that the time within which you may file suit to enforce your claim is limited to 60 days after the date of service of this notice.

DATED on

Signed: (Contractor or Attorney)

The claim of any claimant upon whom such notice is served and who fails to institute a suit to enforce his or her claim against the payment bond within 60 days after service of such notice shall be extinguished automatically. The clerk shall mail a copy of the notice of contest to the claimant at the address shown in the notice of nonpayment or most recent amendment thereto and shall certify to such service on the face of such notice and record the notice. Service is complete upon mailing.

2. A claimant, except a laborer, who is not in privity with the contractor shall, before commencing or not later than 45 days after commencing to furnish labor, materials, or supplies for the prosecution of the work, furnish the contractor with a notice that he or she intends to look to the bond for protection. A claimant who is not in privity with the contractor and who has not received payment for his or her labor, materials, or supplies shall deliver to the contractor and to the surety written notice of the performance of the labor or delivery of the materials or supplies and of the nonpayment. The notice of nonpayment may be served at any time during the progress of the work or thereafter but not before 45 days after the first furnishing of labor, services, or materials, and not later than 90 days after the final furnishing of the labor, services, or materials by the claimant or, with respect to rental equipment, not later than 90 days after the date that the rental equipment was last on the job site available for use. Any notice of nonpayment served by a claimant who is not in privity with the contractor which includes sums for retainage must specify the portion of the amount claimed for retainage. No action for the labor, materials, or supplies may be instituted against the contractor or the surety unless both notices have been given. Notices required or permitted under this section may be served in accordance with s. 713.18. An action, except for an action exclusively for recovery of retainage, must be instituted against the contractor or the surety on the payment bond or the payment provisions of a combined payment and performance bond within 1 year after the performance of the labor or completion of delivery of the materials or supplies. An action exclusively for recovery of retainage must be instituted against the contractor or the surety within 1 year after the performance of the labor or completion of delivery of the materials or supplies, or within 90 days after receipt of final payment (or the payment estimate containing the owner's final reconciliation of quantities if no further payment is earned and due as a result of deductive adjustments) by the contractor or surety, whichever comes last. A claimant may not waive in advance his or her right to bring an action under the bond against the surety. In any action brought to enforce a claim against a payment bond under this section, the prevailing party is entitled to recover a reasonable fee for the services of his or her attorney for trial and appeal or for arbitration, in an amount to be determined by the court, which fee must be taxed as part of the prevailing party's costs, as allowed in equitable actions. The time periods for service of a notice of nonpayment or for bringing an action against a contractor or a surety shall be measured from the last day of furnishing labor, services, or materials by the claimant and shall not be measured by other standards, such as the issuance of a certificate of occupancy or the issuance of a certificate of substantial completion.

(b) When a person is required to execute a waiver of his or her right to make a claim against the payment bond in exchange for, or to induce payment of, a progress payment, the waiver may be in substantially the following form:

WAIVER OF RIGHT TO CLAIM AGAINST THE PAYMENT BOND (PROGRESS PAYMENT)

The undersigned, in consideration of the sum of \$. . . , hereby waives its right to claim against the payment bond for labor, services, or materials furnished through (insert date) to (insert the name of your customer) on the job of (insert the name of the owner), for improvements to the following described project:

Section 13. Section 255.05, Florida Statutes, is amended to read:

255.05 Bond of contractor constructing public buildings; form; action by materialmen.—

(1)(a) Any person entering into a formal contract with the state or any county, city, or political subdivision thereof, or other public authority, for the construction of a public building, for the prosecution and completion of a public work, or for repairs upon a public building or public work shall be required, before commencing the work or before recommencing the work after a default or abandonment, to execute, deliver to the public owner, and record in the public records of the county where the improvement is located, a payment and performance bond with a surety insurer authorized to do business in this state as surety. A public entity may not require a contractor to secure a surety bond under this section from a specific agent or bonding company. The bond must state on its front page: the name, principal business address, and phone number of the contractor, the surety, the owner of the property being improved, and, if different from the owner, the contracting public entity; the contract number assigned by the contracting public entity; and a description of the project sufficient to identify it, such as a legal description or the street address of the property being improved, and a general description of the improvement. Such bond shall be conditioned upon the contractor's performance of the construction work in the time and manner prescribed in the contract and promptly making payments to all persons defined in s. 713.01 who furnish labor, services, or materials for the prosecution of the work provided for in the contract. Any claimant may apply to the governmental entity having charge of the work for copies of the contract and bond and shall thereupon be furnished with a certified copy of the contract and bond. The claimant shall have a right of action against the contractor and surety for the amount due him or her, including unpaid finance charges due under the claimant's contract. Such action shall not involve the public authority in any expense. When such work is done for the state and the contract is for \$100,000 or less, no payment and performance bond shall be required. At the discretion of the official or board awarding such contract when such work is done for any county, city, political subdivision, or public authority, any person entering into such a contract which is for \$200,000 or less may be exempted from executing the payment and performance bond. When such work is done for the state, the Secretary of the Department of Management Services may delegate to state agencies the authority to exempt any person entering into such a contract amounting to more than \$100,000 but less than \$200,000 from executing the payment and performance bond. In the event such exemption is granted, the officer or officials shall not be personally liable to persons suffering loss because of granting such exemption. The Department of Management Services shall maintain information on the number of requests by state agencies for delegation of authority to waive the bond requirements by agency and project number and whether any request for delegation was denied and the justification for the denial.

(b) The Department of Management Services shall adopt rules with respect to all contracts for \$200,000 or less, to provide:

1. Procedures for retaining up to 10 percent of each request for payment submitted by a contractor and procedures for determining disbursements from the amount retained on a pro rata basis to laborers, materialmen, and subcontractors, as defined in s. 713.01.

2. Procedures for requiring certification from laborers, materialmen, and subcontractors, as defined in s. 713.01, prior to final payment to the contractor that such laborers, materialmen, and subcontractors have no claims against the contractor resulting from the completion of the work provided for in the contract.

The state shall not be held liable to any laborer, materialman, or subcontractor for any amounts greater than the pro rata share as determined under this section.

(2)(a)1. If a claimant is no longer furnishing labor, services, or materials on a project, a contractor or the contractor's agent or attorney may elect to shorten the prescribed time in this paragraph within which an action to enforce any claim against a payment bond provided pursuant to this section may be commenced by recording in the clerk's office a notice in substantially the following form:

(description of project)

This waiver does not cover any retention or any labor, services, or materials furnished after the date specified.

DATED ON

By: _____
(Claimant)

(c) When a person is required to execute a waiver of his or her right to make a claim against the payment bond, in exchange for, or to induce payment of, the final payment, the waiver may be in substantially the following form:

WAIVER OF RIGHT TO CLAIM
AGAINST THE PAYMENT BOND (FINAL PAYMENT)

The undersigned, in consideration of the final payment in the amount of \$. . . , hereby waives its right to claim against the payment bond for labor, services, or materials furnished to (insert the name of your customer) on the job of (insert the name of the owner), for improvements to the following described project:

(description of project)

DATED ON

By: _____
(Claimant)

(d) A person may not require a claimant to furnish a waiver that is different from the forms in paragraphs (b) and (c).

(e) A claimant who executes a waiver in exchange for a check may condition the waiver on payment of the check.

(f) A waiver that is not substantially similar to the forms in this subsection is enforceable in accordance with its terms.

(Redesignate subsequent sections.)

MOTION

On motion by Senator Argenziano, the rules were waived to allow the following amendment to be considered:

Senator Argenziano moved the following amendment to **Amendment 1** which was adopted:

Amendment 1A (792128)—On page 19, line 20, after “denial.” insert: *Any provision in a bond furnished for public work contracts as provided by this subsection restricting the classes or persons protected by such bond or the venue of any proceeding relating to such bond is unenforceable.*

Amendment 1 as amended was adopted.

Senator Bennett moved the following amendment:

Amendment 2 (554528)(with title amendment)—On page 2, line 18 through page 3, line 11, delete those lines and insert: *limitation provisions in Section 255.05, Florida Statutes.*

Any changes in or under the contract documents and compliance or noncompliance with any formalities connected with the contract or the changes does not affect Surety’s obligation under this bond.

DATED ON _____, _____.

... (Name of Principal) ...

By ... (As Attorney in Fact) ...

... (Name of Surety) ...

(4) The payment provisions of all bonds required by ~~furnished for public work contracts described in subsection (1)~~ shall, regardless of form, be construed and deemed statutory bonds furnished pursuant to this section and such bonds shall not under any circumstances be converted into common law bonds ~~and provisions, subject to all requirements of subsection (2).~~

(5) In addition to the provisions of chapter 47, any action authorized under this section may be brought in the county in which the public building or public work is being constructed or repaired. This subsection shall not apply to an action instituted prior to May 17, 1977.

~~(6) All bonds executed pursuant to this section shall make reference to this section by number and shall contain reference to the notice and time limitation provisions of this section.~~

~~(6)(7)~~ In lieu of the bond required by this section, a contractor may file with the state, county, city, or other political authority an alternative form of security in the form of cash, a money order, a certified check, a cashier’s check, an irrevocable letter of credit, or a security of a type listed in part II of chapter 625. Any such alternative form of security shall be for the same purpose and be subject to the same conditions as those applicable to the bond required by this section. The determination of the value of an alternative form of security shall be made by the appropriate state, county, city, or other political subdivision.

~~(7)(8)~~ When a contractor has furnished a payment bond pursuant to this section, he or she may, when the state, county, municipality, political subdivision, or other public authority makes any payment to the contractor or directly to a claimant, serve a written demand on any claimant who is not in privity with the contractor for a written statement under oath of his or her account showing the nature of the labor or services performed and to be performed, if any; the materials furnished; the materials to be furnished, if known; the amount paid on account to date; the amount due; and the amount to become due, if known, as of the date of the statement by the claimant. Any such demand to a claimant who is not in privity with the contractor must be served on the claimant at the address and to the attention of any person who is designated to receive the demand in the notice to contractor served by the claimant. The failure or refusal to furnish the statement does not deprive the claimant of his or her rights under the bond if the demand is not served at the address of the claimant or directed to the attention of the person designated to receive the demand in the notice to contractor. The failure to furnish the statement within 30 days after the demand, or the furnishing of a false or fraudulent statement, deprives the claimant who fails to furnish the statement, or who furnishes the false or fraudulent statement, of his or her rights under the bond. If the contractor serves more than one demand for statement of account on a claimant and none of the information regarding the account has changed since the claimant’s last response to a demand, the failure or refusal to furnish such statement does not deprive the claimant of his or her rights under the bond. The negligent inclusion or omission of any information deprives the claimant of his or her rights under the bond to the extent that the contractor can demonstrate prejudice from such act or omission by the claimant. The failure to furnish a response to a demand for statement of account does not affect the validity of any claim on the bond being enforced in a lawsuit filed before the date the demand for statement of account is received by the claimant.

~~(8)(9)~~ On any public works project for which the public authority requires a performance and payment bond, suits at law and in equity may be brought and maintained by and against the public authority on any contract claim arising from breach of an express provision or an implied covenant of a written agreement or a written directive issued by the public authority pursuant to the written agreement. In any such suit, the public authority and the contractor shall have all of the same rights and obligations as a private person under a like contract except that no liability may be based on an oral modification of either the written contract or written directive. Nothing herein shall be construed to waive the sovereign immunity of the state and its political subdivisions from equitable claims and equitable remedies. The provisions of this subsection shall apply only to contracts entered into on or after July 1, 1999.

~~(9)~~ An action, except an action for recovery of retainage, must be instituted against the contractor or the surety on the payment bond or the payment provisions of a combined payment and performance bond within 1 year after the performance of the labor or completion of delivery of the materials or supplies. An action for recovery of retainage must be instituted against the contractor or the surety within 1 year after the performance of the labor or completion of delivery of the materials or supplies, provided that such an action may not be instituted until one of the following conditions is satisfied:

(a) The public entity has paid out the claimant’s retainage to the contractor, and the time provided under s. 255.073(3) for payment of that retainage to the claimant has expired;

(b) *The claimant has completed all work required under its contract and 70 days have passed since the contractor sent its final payment request to the public entity; or*

(c) *The claimant has asked the contractor, in writing, when the contractor received payment of the claimant's retainage or when the contractor sent its final payment request to the public entity, and the contractor has failed to respond to this request, in writing, within 10 days after receipt.*

If none of the conditions described in paragraph (a), paragraph (b), or paragraph (c) is satisfied and an action for recovery of retainage therefore cannot be instituted within the 1-year limitation period set forth in this subsection, this limitation period shall be extended until 120 days after one of these conditions is satisfied.

Section 1. Paragraph (b) of subsection (2) of section 95.11, Florida Statutes, is amended to read:

95.11 Limitations other than for the recovery of real property.—Actions other than for recovery of real property shall be commenced as follows:

(2) WITHIN FIVE YEARS.—

(b) A legal or equitable action on a contract, obligation, or liability founded on a written instrument, except for an action to enforce a claim against a payment bond, which shall be governed by the applicable provisions of ss. 255.05(9) ~~255.05(2)(a)2.~~ and 713.23(1)(e).

Section 2. *Neither the amendments to sections 95.11, 218.70, 218.72, 218.735, and 255.071, Florida Statutes, and subsection (2) of section 255.05, Florida Statutes, as provided in this act, nor subsection (9) of section 255.05, Florida Statutes, and section 255.078, Florida Statutes, as created by this act, applies to any existing construction contract pending approval by a local governmental entity or public entity, or to any project advertised for bid by the local government entity or public entity, on or before the effective date of this act. The amendments to subsections (3), (4), and (6) of section 255.05, Florida Statutes, as provided in this act, apply to public construction bonds issued for contracts entered into on or after the effective date of this act.*

Section 3. This act shall take effect October 1, 2004.

And the title is amended as follows:

On page 1, lines 2-9, delete those lines and insert: An act relating to prompt payment for construction services; amending s. 218.70, F.S.; providing a short title; amending s. 218.72, F.S.; redefining terms used in part VII of ch. 218, F.S.; amending s. 218.735, F.S.; revising provisions relating to timely payment for purchases of construction services; revising deadlines for payment; providing procedures for project closeout and payment of retainage; providing requirements for local government construction retainage; providing that ss. 218.72-218.76, F.S., apply to the payment of any payment request for retainage; providing exceptions; creating s. 255.0705, F.S.; providing a short title; amending s. 255.071, F.S.; revising deadlines for the payment of subcontractors, sub-subcontractors, materialmen, and suppliers on construction contracts for public projects; creating ss. 255.072, 255.073, 255.074, 255.075, 255.076, 255.077, and 255.078, F.S.; providing definitions; providing for timely payment for purchases of construction services by a public entity; providing procedures for calculating payment due dates; providing procedures for handling improper payment requests; providing for the resolution of disputes; providing for project closeout and payment of retainage; providing that ss. 255.072-255.076, F.S., apply to the payment of any payment request for retainage; providing exceptions; amending s. 255.05, F.S.; providing requirements for certain notices of nonpayment served by a claimant who is not in privity with the contractor; revising the form for a public construction bond; requiring the payment provisions of all public construction bonds to be construed as statutory bonds; prohibiting conversion to common law bonds; deleting a requirement that bond forms used by public owners reference certain notice and time limitation provisions; providing limitations on a claimant's institution of certain actions against a contractor or surety; amending s. 95.11, F.S., to conform a cross-reference; providing for application of specified sections of the act to certain contracts and projects; providing an effective date.

MOTION

On motion by Senator Argenziano, the rules were waived to allow the following amendments to be considered:

Senator Argenziano moved the following amendments to **Amendment 2** which were adopted:

Amendment 2A (893818)—In title, on page 7, line 21, after the semicolon (;) insert: making certain restrictions in bonds issued for public works projects unenforceable;

Amendment 2B (395228)(with title amendment)—On page 2, lines 9 and 10, delete those lines and insert: constructed or repaired. ~~This subsection shall not apply to an action instituted prior to May 17, 1977.~~

And the title is amended as follows:

On page 7, line 28, after the semicolon (;) insert: deleting obsolete language;

Amendment 2C (090100)(with title amendment)—On page 5, between lines 29 and 30, insert:

Section 2. Section 713.015, Florida Statutes, is amended to read:

713.015 Mandatory provisions for direct contracts.—Any direct contract between an owner and a contractor, related to improvements to real property consisting of single or multiple family dwellings up to and including four units, must contain the following provision printed in capital letters no less than the same size 18-point, capitalized, boldfaced type used in the body of the contract:

ACCORDING TO FLORIDA'S CONSTRUCTION LIEN LAW (SECTIONS 713.001-713.37, FLORIDA STATUTES), THOSE WHO WORK ON YOUR PROPERTY OR PROVIDE MATERIALS AND ARE NOT PAID IN FULL HAVE A RIGHT TO ENFORCE THEIR CLAIM FOR PAYMENT AGAINST YOUR PROPERTY. THIS CLAIM IS KNOWN AS A CONSTRUCTION LIEN. IF YOUR CONTRACTOR OR A SUBCONTRACTOR FAILS TO PAY SUBCONTRACTORS, SUB-SUBCONTRACTORS, OR MATERIAL SUPPLIERS OR NEGLECTS TO MAKE OTHER LEGALLY REQUIRED PAYMENTS, THE PEOPLE WHO ARE OWED MONEY MAY LOOK TO YOUR PROPERTY FOR PAYMENT, EVEN IF YOU HAVE PAID YOUR CONTRACTOR IN FULL. IF YOU FAIL TO PAY YOUR CONTRACTOR, YOUR CONTRACTOR MAY ALSO HAVE A LIEN ON YOUR PROPERTY. THIS MEANS IF A LIEN IS FILED YOUR PROPERTY COULD BE SOLD AGAINST YOUR WILL TO PAY FOR LABOR, MATERIALS, OR OTHER SERVICES THAT YOUR CONTRACTOR OR A SUBCONTRACTOR MAY HAVE FAILED TO PAY. FLORIDA'S CONSTRUCTION LIEN LAW IS COMPLEX AND IT IS RECOMMENDED THAT WHENEVER A SPECIFIC PROBLEM ARISES, YOU CONSULT AN ATTORNEY.

Section 3. Subsection (7) of section 713.02, Florida Statutes, is amended to read:

713.02 Types of lienors and exemptions.—

(7) Notwithstanding any other provision of this part, no lien shall exist in favor of any contractor, subcontractor, or sub-subcontractor who is unlicensed as provided in s. 489.128 or s. 489.532. *Notwithstanding any other provision of this part, if a contract is rendered unenforceable by an unlicensed contractor, subcontractor, or sub-subcontractor pursuant to s. 489.128 or s. 489.532, such unenforceability shall not affect the rights of any other persons to enforce contract, lien, or bond remedies and shall not affect the obligations of a surety that has provided a bond on behalf of the unlicensed contractor, subcontractor, or sub-subcontractor. It shall not be a defense to any claim on a bond or indemnity agreement that the principal or indemnitor is unlicensed as provided in s. 489.128 or s. 489.532.*

Section 4. Subsection (3) of section 713.04, Florida Statutes, is amended, and subsection (4) is added to that section, to read:

713.04 Subdivision improvements.—

(3) The owner shall not pay any money on account of a direct contract before actual furnishing of labor and services or materials for subdivision improvements. ~~Any such The payment not complying with such~~

requirement shall not qualify as a proper payment under this *chapter section*.

(4) *The owner shall make final payment on account of a direct contract only after the contractor complies with s. 713.06(3)(d). Any such payment not complying with such requirement shall not qualify as a proper payment under this chapter.*

Section 5. Paragraph (c) of subsection (4) of section 713.08, Florida Statutes, is amended to read:

713.08 Claim of lien.—

(4)

(c) *The claim of lien shall be served on the owner. Failure to serve any claim of lien in the manner provided in s. 713.18 before recording or within 15 days after recording shall render the claim of lien voidable to the extent that the failure or delay is shown to have been prejudicial to any person entitled to rely on the service.*

Section 6. Paragraph (e) of subsection (1) of section 713.13, Florida Statutes, is amended to read:

713.13 Notice of commencement.—

(1)

(e) A copy of any bond must be attached at the time of recordation of the notice of commencement. The failure to attach a copy of the bond to the notice of commencement when the notice is recorded negates the exemption provided in s. 713.02(6). However, if such a bond exists but is not recorded, the bond may be used as a transfer bond pursuant to s. 713.24. *The bond shall be deemed a transfer bond under s. 713.24 for all purposes at the time of recordation of the notice of bond and the clerk's mailing as provided in s. 713.23(2). The notice requirements of s. 713.23 apply to any claim against the bond; however, the time limits for serving the notice shall run from the latter of the time specified in s. 713.23 or the date the notice of bond is served on the lienor.*

Section 7. Paragraph (b) of subsection (1) and subsection (4) of section 713.135, Florida Statutes, are amended, and paragraph (e) is added to subsection (1) of that section, to read:

713.135 Notice of commencement and applicability of lien.—

(1) When any person applies for a building permit, the authority issuing such permit shall:

(b) Provide the applicant and the owner of the real property upon which improvements are to be constructed with a printed statement stating that the right, title, and interest of the person who has contracted for the improvement may be subject to attachment under the Construction Lien Law. The Department of Business and Professional Regulation shall furnish, for distribution, the statement described in this paragraph, and the statement must be a summary of the Construction Lien Law and must include an explanation of the provisions of the Construction Lien Law relating to the recording, and the posting of copies, of notices of commencement and a statement encouraging the owner to record a notice of commencement and post a copy of the notice of commencement in accordance with s. 713.13. The statement must also contain an explanation of the owner's rights if a lienor fails to furnish the owner with a notice as provided in s. 713.06(2) and an explanation of the owner's rights as provided in s. 713.22. The authority that issues the building permit must obtain from the Department of Business and Professional Regulation the statement required by this paragraph and must mail, *deliver by electronic mail or other electronic format or facsimile, or personally deliver that statement to the owner or, in the case in which the owner is required to personally appear to obtain the permit, provide that statement to any owner making improvements to real property consisting of a single or multiple family dwelling up to and including four units. However, the failure by the authorities to provide the summary does not subject the issuing authority to liability.*

(e) *Nothing in this subsection shall be construed to require a notice of commencement to be recorded as a condition to the issuance of a building permit.*

(4) The several boards of county commissioners, municipal councils, or other similar bodies may by ordinance or resolution establish reason-

able fees for furnishing copies of the forms and the printed statement provided in *paragraphs (1)(b) and paragraph (1)(d)* in an amount not to exceed \$5 to be paid by the applicant for each permit in addition to all other costs of the permit; however, no forms or statement need be furnished, *mailed, or otherwise provided* to, nor may such additional fee be obtained from, applicants for permits in those cases in which the owner of a legal or equitable interest (including that of ownership of stock of a corporate landowner) of the real property to be improved is engaged in the business of construction of buildings for sale to others and intends to make the improvements authorized by the permit on the property and upon completion will offer the improved real property for sale.

Section 8. Subsection (4) of section 713.24, Florida Statutes, is amended to read:

713.24 Transfer of liens to security.—

(4) If a proceeding to enforce a transferred lien is not commenced within the time specified in s. 713.22 or if it appears that the transferred lien has been satisfied of record, the clerk shall return said security upon request of the person depositing or filing the same, or the insurer. *If a proceeding to enforce a lien is commenced in a court of competent jurisdiction within the time specified in s. 713.22 and, subsequent to the expiration of the proceeding, the lien is transferred pursuant to s. 713.24, an action commenced to recover against the security shall be deemed to have been brought as of the date of filing the action to enforce the lien.*

Section 9. Paragraph (b) of subsection (1) of section 713.345, Florida Statutes, is amended to read:

713.345 Moneys received for real property improvements; penalty for misapplication.—

(1)

(b) Any person who knowingly and intentionally fails to comply with paragraph (a) is guilty of misapplication of construction funds, punishable as follows:

1. If the amount of payments misapplied has an aggregate value of \$100,000 or more, the violator is guilty of a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. If the amount of payments misapplied has an aggregate value of ~~\$20,000 or more~~ but less than \$100,000, the violator is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

~~3. If the amount of payments misapplied has an aggregate value of less than \$20,000, the violator is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

Section 10. Subsection (1) of section 713.3471, Florida Statutes, is amended to read:

713.3471 Lender responsibilities with construction loans.—

(1) Prior to a lender making ~~the first~~ *any* loan disbursement on any construction loan secured by residential property directly to the owner, which for purposes of this section means an individual owner only, or jointly to the owner and any other party, the lender shall give the following written notice to the ~~owner borrowers~~ *owner* in bold type larger than any other type on the page:

WARNING!

YOUR LENDER IS MAKING A LOAN DISBURSEMENT DIRECTLY TO YOU AS THE OWNER BORROWER, OR JOINTLY TO YOU AND ANOTHER PARTY. TO PROTECT YOURSELF FROM HAVING TO PAY TWICE FOR THE SAME LABOR, SERVICES, OR MATERIALS USED IN MAKING THE IMPROVEMENTS TO YOUR PROPERTY, BE SURE THAT YOU REQUIRE YOUR CONTRACTOR TO GIVE YOU LIEN RELEASES FROM EACH LIENOR WHO HAS SENT YOU A NOTICE TO OWNER EACH TIME YOU MAKE A PAYMENT TO YOUR CONTRACTOR.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 8, line 3, after the semicolon (;) insert: amending s. 713.015, F.S.; revising a direct contract provision requirement; amending s. 713.02, F.S.; protecting the rights of certain persons to enforce certain contract, lien, or bond remedies or contractual obligations under certain circumstances; precluding certain defenses; amending s. 713.04, F.S.; revising certain final payment requirements; amending s. 713.08, F.S.; requiring a claim of lien to be served on an owner; amending s. 713.13, F.S.; clarifying use of a payment bond as a transfer bond; amending s. 713.135, F.S., revising certain notice of commencement and applicability of lien requirements for certain authorities issuing building permits; amending s. 713.24, F.S.; preserving certain lien rights when filing a transfer bond after commencing certain lien enforcement proceedings; amending s. 713.345, F.S.; increasing certain criminal penalties for misapplication of construction funds; amending s. 713.3471, F.S.; revising a notice requirement concerning the disbursement of payments on construction loans; requiring that the notice be provided to the owner;

Amendment 2 as amended was adopted.

Pursuant to Rule 4.19, **CS for SB 1600** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Bennett—

CS for SB 3046—A bill to be entitled An act relating to construction defects; amending s. 558.001, F.S.; revising legislative findings and declarations; amending s. 558.002, F.S.; revising definitions; amending s. 558.003, F.S.; providing requirements for filing actions alleging construction defects; requiring abatement, upon timely motion, of certain actions filed that do not comply with certain requirements; amending s. 558.004, F.S.; revising requirements, procedures, criteria, and limitations in provisions relating to notice and opportunity to repair construction defects in certain structures; providing requirements and procedures for making, accepting, or rejecting settlement offers; providing for consequences of certain actions relating to settlement offers; specifying legal obligation to make certain repairs or monetary payments under certain circumstances; providing a mutual duty to exchange certain discoverable evidence; providing requirements and limitations; amending s. 558.005, F.S.; revising certain contract content provisions; providing a notice form; providing application; providing severability; providing an effective date.

—was read the second time by title.

Amendments were considered and adopted to conform **CS for SB 3046** to **HB 1899**.

Pending further consideration of **CS for SB 3046** as amended, on motion by Senator Bennett, by two-thirds vote **HB 1899** was withdrawn from the Committees on Regulated Industries; and Judiciary.

On motion by Senator Bennett, by two-thirds vote—

HB 1899—A bill to be entitled An act relating to construction defects; amending s. 558.001, F.S.; revising legislative findings and declarations; amending s. 558.002, F.S.; revising definitions; amending s. 558.003, F.S.; providing requirements for filing actions alleging construction defects; requiring abatement, upon timely motion, of certain actions filed that do not comply with certain requirements; amending s. 558.004, F.S.; revising requirements, procedures, criteria, and limitations in provisions relating to notice and opportunity to repair construction defects in certain structures; providing requirements and procedures for making, accepting, or rejecting settlement offers; providing for consequences of certain actions relating to settlement offers; specifying legal obligation to make certain repairs or monetary payments under certain circumstances; providing a mutual duty to exchange certain discoverable evidence; providing requirements and limitations; amending s. 558.005, F.S.; revising certain contract content provisions; providing a notice form; providing application; providing severability; providing an effective date.

—a companion measure, was substituted for **CS for SB 3046** as amended and by two-thirds vote read the second time by title.

Pursuant to Rule 4.19, **HB 1899** was placed on the calendar of Bills on Third Reading.

By direction of the President, the rules were waived and the Senate reverted to—

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Villalobos, by two-thirds vote **CS for CS for SB 162, CS for SB 332, CS for CS for SB 354, CS for CS for SB's 1228 and 2080, CS for SM 2522, CS for CS for SB 2704 and CS for CS for SB 2722** were withdrawn from the Committee on Rules and Calendar; **CS for SB 1366, CS for SB 2302, CS for SB 2322 and CS for SB 2664** were withdrawn from the Committees on Appropriations Subcommittee on General Government; and Appropriations; **SB 300** was withdrawn from the Committees on Appropriations Subcommittee on Education; Appropriations; and Rules and Calendar; **CS for CS for SB 440, CS for SB 1842, SB 2680 and CS for CS for SB 2682** were withdrawn from the Committee on Judiciary; **CS for CS for SB 520 and CS for SB 494** was withdrawn from the Committee on Finance and Taxation; **CS for CS for SB 684** was withdrawn from the Committee on Agriculture; **CS for CS for SB 1562** was withdrawn from the Committees on Appropriations Subcommittee on Criminal Justice; and Appropriations; **CS for SB 1578** was withdrawn from the Committee on Health, Aging, and Long-Term Care; **CS for SB 1720** was withdrawn from the Committee on Comprehensive Planning; **CS for SB 1226, CS for SB 1782 and CS for CS for SB 2808** were withdrawn from the Committees on Appropriations Subcommittee on Health and Human Services; and Appropriations; **CS for SB 1824 and CS for SB 2246** were withdrawn from the Committee on Appropriations; **CS for SB 2008** was withdrawn from the Committees on Governmental Oversight and Productivity; and Rules and Calendar; **CS for SB 2248, CS for SB's 2362 and 3072 and CS for SB 2956** were withdrawn from the Committee on Governmental Oversight and Productivity; **CS for SB 2294** was withdrawn from the Committee on Natural Resources; **CS for SB 2310, SB 2968 and CS for SB 3000** were withdrawn from the Committees on Appropriations Subcommittee on Education; and Appropriations; and **CS for SB 2938** was withdrawn from the Committees on Appropriations Subcommittee on Transportation and Economic Development; and Appropriations.

By direction of the President, the rules were waived and the Senate reverted to—

BILLS ON THIRD READING

On motion by Senator Alexander, by two-thirds vote **HB 373** was withdrawn from the Committees on Natural Resources; and Governmental Oversight and Productivity.

On motion by Senator Alexander, by two-thirds vote—

HB 373—A bill to be entitled An act relating to water policy; amending s. 373.069, F.S.; revising boundaries of the Southwest Florida Water Management District and the South Florida Water Management District; amending s. 373.0691, F.S.; providing for the transfer of land and other incidentals from the Southwest Florida Water Management District to the South Florida Water Management District; requiring the Southwest Florida Management District to take final agency action with respect to certain permit applications received prior to a date certain; amending s. 373.073, F.S.; removing Highlands County from the Southwest Florida Water Management District's governing board; providing an effective date.

—a companion measure, was substituted for **CS for SB 2342** and by two-thirds vote read the second time by title. On motion by Senator Alexander, by two-thirds vote **HB 373** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Campbell	Diaz de la Portilla
Alexander	Carlton	Dockery
Argenziano	Clary	Fasano
Aronberg	Constantine	Garcia
Atwater	Cowin	Geller
Bennett	Crist	Haridopolos
Bullard	Dawson	Hill

Jones	Peaden	Villalobos
Klein	Posey	Wasserman Schultz
Lawson	Pruitt	Webster
Lee	Saunders	Wilson
Lynn	Sebesta	Wise
Margolis	Siplin	
Miller	Smith	

Nays—None

SB 2112—A bill to be entitled An act relating to nonsettling-manufacturer cigarettes; creating s. 210.0205, F.S.; providing definitions; imposing a fee on certain cigarettes; providing payment requirements; requiring reporting of the number and denominations of stamps affixed to individual packages of certain cigarettes by manufacturer and brand family; authorizing rulemaking regarding such reports; requiring registration with the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation of nonsettling manufacturers of cigarettes; requiring development, maintenance, and publication by the division of a list of nonsettling manufacturers of cigarettes which have certified their compliance with this act; treating cigarettes of certain manufacturers that have not paid the fee imposed by this act or that have not complied with reporting requirements as cigarettes for which the tax imposed by s. 210.02, F.S., has not been paid; prohibiting the stamping of certain cigarettes for which the fee imposed by this act has not been paid in full or the nonsettling manufacturer of which has not complied with reporting requirements; amending s. 210.01, F.S.; revising and providing definitions; amending s. 210.05, F.S.; providing stamp requirements for cigarettes in transport; providing stamp exceptions for certain cigarettes; requiring transporters of certain cigarettes to submit certain reports; amending s. 210.06, F.S.; revising requirements for and limitations on the affixation of stamps; providing requirements with respect to receipt, possession, storage, and transport of unstamped cigarette packages; creating s. 210.085, F.S.; requiring manufacturers, importers, distributing agents, dealers, and retail dealers to hold a current, valid permit to sell, distribute, or receive cigarettes; amending s. 210.09, F.S.; providing notice and filing guidelines for certain person shipping unstamped cigarette packages; authorizing certain law enforcement officials to inspect certain shipping vehicles; amending s. 210.12, F.S.; authorizing the state to claim certain property and materials from certain dealers and retailers who attempt to defraud the state; authorizing the destruction of certain cigarettes; amending s. 210.15, F.S.; providing criteria for permit application; prohibiting issuance, maintenance, or renewal of certain permits for certain applicants; providing guidelines for permit application denial; amending s. 210.18, F.S.; expanding the group of violators subject to criminal liability; prohibiting the sale or possession for sale of counterfeit cigarettes; providing penalties; creating s. 210.181, F.S.; providing civil penalties for failure to comply with certain duties or pay certain taxes; reenacting ss. 772.102(1)(a) and 895.02(1)(a), F.S., relating to crimes constituting a “criminal activity” and definitions as used in the Florida RICO Act, to incorporate the amendment to s. 210.18, F.S., in references thereto; providing an appropriation and authorizing positions; providing an appropriation to the Department of Health; providing purposes; providing an effective date.

—as amended April 24 was read the third time by title.

SENATOR PRUITT PRESIDING

MOTION

On motion by Senator Dockery, the rules were waived to allow the following amendment to be considered:

Senator Dockery moved the following amendment:

Amendment 1 (901800)—On page 5, lines 10-23, delete those lines and insert: *Year 2005-2006. Beginning January 1, 2007, and on January 1 of each year thereafter, the division shall adjust the tax rate by the greater of 3 percent or the percentage change in the average of the Consumer Price Index issued by the United States Department of Labor for the most recent 12-month period ending September 30 compared to the 12-month period ending September 30 of the prior year.*

(3) *The division shall collect the fee once each month from each nonsettling manufacturer based on information received pursuant to subsec-*

tion (6). The division shall mail to each nonsettling manufacturer not later than the 15th day of each month a notice of the fee due from that manufacturer for sales of its cigarettes made in the preceding month. Each such nonsettling manufacturer shall ensure that the division has received payment of the fee in full no later than the last day of the month in which the notice was mailed. Except as otherwise provided in this section, proceeds from the fee shall be deposited into the General Revenue Fund and the fee shall be imposed,

THE PRESIDENT PRESIDING

MOTION

On motion by Senator Klein, the rules were waived to allow the following amendment to be considered:

Senators Klein and Dockery offered the following amendment to **Amendment 1** which was moved by Senator Klein and adopted by two-thirds vote:

Amendment 1A (181856)—On page 2, line 2, delete “General Revenue” and insert: *Tobacco Settlement Clearing Trust*

Amendment 1 as amended was adopted by two-thirds vote.

MOTION

On motion by Senator Klein, the rules were waived to allow the following amendment to be considered:

Senators Klein and Dockery offered the following amendment which was moved by Senator Klein and adopted by two-thirds vote:

Amendment 2 (195416)(with title amendment)—On page 29, between lines 29 and 30, insert:

Section 15. Subsection (2) of section 17.41, Florida Statutes, is amended to read:

17.41 Department of Financial Services Tobacco Settlement Clearing Trust Fund.—

(2) Funds to be credited to the Tobacco Settlement Clearing Trust Fund shall consist of payments received by the state from settlement of State of Florida v. American Tobacco Co., No. 95-1466AH (Fla. 15th Cir. Ct. 1996) and fees from the nonsettling-manufacturer fee collected pursuant to s. 210.0205. Moneys received from the settlement and fees and deposited into the trust fund are exempt from the service charges imposed under s. 215.20.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 3, line 10, after the second semicolon (;) insert: amending s. 17.41, F.S.; providing additional source of revenue to the Tobacco Settlement Trust Fund;

On motion by Senator Dockery, **SB 2112** as amended was passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—28

Mr. President	Garcia	Posey
Alexander	Geller	Pruitt
Argenziano	Hill	Saunders
Bennett	Jones	Sebesta
Bullard	Klein	Siplin
Campbell	Lawson	Smith
Clary	Lee	Villalobos
Constantine	Margolis	Wasserman Schultz
Crist	Miller	
Dockery	Peaden	

Nays—8

Aronberg	Diaz de la Portilla	Wilson
Atwater	Haridopolos	Wise
Cowin	Webster	

Vote after roll call:

Yea—Carlton, Fasano, Lynn

SENATOR WEBSTER PRESIDING

SPECIAL ORDER CALENDAR, continued

On motion by Senator Garcia, the Senate resumed consideration of—

CS for SB 2572—A bill to be entitled An act relating to airport zoning; amending s. 333.03, F.S.; providing exceptions from certain airport zoning prohibitions for the placement of educational facilities in certain counties; amending s. 1013.36, F.S., to conform; providing an effective date.

—which was previously considered this day. Pending Amendment 1 (250890) by Senator Garcia was adopted.

Senator Garcia moved the following amendment which was adopted:

Amendment 2 (900238)—On page 3, line 11, delete “(e)” and insert: (d)

MOTION

On motion by Senator Garcia, the rules were waived to allow the following amendment to be considered:

Senator Garcia moved the following amendment which was adopted:

Amendment 3 (021312)—On page 2, lines 17-23, delete those lines and insert: For educational facilities, this provision does not apply to any county as defined in s. 125.011(1). The school board in any such county shall provide a public hearing prior to site acquisition for any educational facility that is located in the area delineated in this subsection. Exceptions approving construction

Pursuant to Rule 4.19, CS for SB 2572 as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

CS for SB 540—A bill to be entitled An act relating to manatee protection; amending s. 370.12, F.S.; creating an exception from penalties for activities that are otherwise prohibited if the activity is reasonably necessary in order to prevent loss of human life or a vessel in distress or render necessary assistance to persons or a vessel in distress; directing that existing manatee protection rules be presumed adequate and additional rules unnecessary in a region where measurable biological goals are being achieved; providing that the presumption does not prevent the commission from amending existing rules or adopting new rules to address risks or circumstances affecting manatees within that region; defining the term “region” for purposes of the act; creating s. 370.1202, F.S.; requiring the Fish and Wildlife Conservation Commission to implement an enhanced manatee protection study; providing goals for manatee protection research relating to decisions based on sound science-based policies; directing the commission to contract with Mote Marine Laboratory to conduct a manatee habitat and submerged aquatic vegetation assessment; providing requirements for the assessment; directing that reports be made to the Governor, Legislature, and commission which include recommendations based upon study results; requiring an annual audit; directing the Fish and Wildlife Conservation Commission to conduct a signage and boat speed assessment of the effectiveness of signs warning boaters of manatee slow-speed zones in the waters of this state; providing requirements for the assessment; directing the commission to prepare and submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives; directing the commission to make specific policy recommendations regarding signs in manatee slow-speed zones; authorizing the Fish and Wildlife Conservation Commission to develop and implement a genetic tagging program for manatees; amending s. 372.072, F.S.; requiring the Fish and Wildlife Conservation Commission to develop rules not later than July 1, 2005, which define how measurable biological goals will be used when evaluating the need for additional manatee protection rules; providing appropriations; providing an effective date.

—was read the second time by title.

Senators Wasserman Schultz and Cowin offered the following amendment which was moved by Senator Wasserman Schultz and adopted:

Amendment 1 (114508)(with title amendment)—On page 2, line 25 through page 4, line 2, delete those lines and insert:

Section 1. Paragraph (s) of subsection (2) of section 370.12, Florida Statutes, is amended to read:

370.12 Marine animals; regulation.—

(2) PROTECTION OF MANATEES OR SEA COWS.—

(s) Except as otherwise provided in this paragraph, any person violating the provisions of this subsection or any rule or ordinance adopted pursuant to this subsection commits shall be guilty of a misdemeanor, punishable as provided in s. 370.021(1)(a) or (b).

1. Any person operating a vessel in excess of a posted speed limit shall be guilty of a civil infraction, punishable as provided in s. 327.73, except as provided in subparagraph 2.

2. This paragraph does not apply to persons violating restrictions governing “No Entry” zones or “Motorboat Prohibited” zones, who, if convicted, shall be guilty of a misdemeanor, punishable as provided in s. 370.021(1)(a) or (b), or, if such violation demonstrates blatant or willful action, may be found guilty of harassment as described in paragraph (d).

3. A person may engage in any activity otherwise prohibited by this subsection or any rule or ordinance adopted pursuant to this subsection if the activity is reasonably necessary in order to prevent the loss of human life or a vessel in distress due to weather conditions or other reasonably unforeseen circumstances, or in order to render emergency assistance to persons or a vessel in distress.

And the title is amended as follows:

On page 1, lines 9-18, delete those lines and insert: distress; creating s. 370.1202, F.S.;

The vote was:

Yeas—19

Table with 3 columns: Argenziano, Aronberg, Bullard, Campbell, Constantine, Cowin, Crist, Dawson, Dockery, Geller, Hill, Klein, Margolis, Miller, Saunders, Smith, Villalobos, Wasserman Schultz, Wilson

Nays—14

Table with 3 columns: Alexander, Atwater, Bennett, Clary, Haridopolos, Jones, Lynn, Peaden, Posey, Pruitt, Sebesta, Siplin, Webster, Wise

Senator Wasserman Schultz moved the following amendment:

Amendment 2 (294146)—On page 4, line 10 through page 5, line 7, delete those lines and insert:

in the waters of the state. The enhanced study shall include an assessment of factors that the commission may use when seeking to provide manatees with the maximum protection possible while considering recreational uses of the state’s waterways. An additional goal of the enhanced study is to collect data that will enable resource managers and state and local policymakers, in consultation with the public, to develop and implement sound science-based policies to improve manatee habitat, establish manatee protection zones, and enhance safe boating opportunities without endangering the manatees.

(2)(a) As part of the enhanced manatee protection study, the Legislature intends that the commission shall contract with Mote Marine Labo-

ratory to conduct a "Manatee Habitat and Submerged Aquatic Vegetation Assessment" that specifically considers, at a minimum, the following:

1. The manatee populations that congregate in the warm water discharge sites at power plants in the state, including potential risks to manatees at these sites from disease or the loss of the warm water habitat; and

2. How the loss of warm water habitat may affect the size and health of both the manatee population and the health of submerged aquatic vegetation. The study shall also consider other factors that may affect the optimum productivity of submerged aquatic vegetation within the rest of the manatees' habitat range in the waters of this state.

On motion by Senator Bennett, further consideration of **CS for SB 540** with pending **Amendment 2 (294146)** was deferred.

On motion by Senator Bennett—

CS for SB 560—A bill to be entitled An act relating to health care; providing legislative findings and intent; amending s. 456.072, F.S., relating to grounds for discipline, penalties, and enforcement applicable to health care practitioners; providing that a practitioner's failure to disclose his or her training in health care advertisements and in professional relationships with patients constitutes grounds for disciplinary action; providing exceptions; providing penalties; specifying that a reference to the section constitutes a general reference under the doctrine of incorporation by reference; providing an effective date.

—was read the second time by title.

Senator Fasano moved the following amendment which was adopted:

Amendment 1 (502588)(with title amendment)—On page 11, between lines 20 and 21, insert:

Section 3. Subsection (12) is added to section 409.907, Florida Statutes, to read:

409.907 Medicaid provider agreements.—The agency may make payments for medical assistance and related services rendered to Medicaid recipients only to an individual or entity who has a provider agreement in effect with the agency, who is performing services or supplying goods in accordance with federal, state, and local law, and who agrees that no person shall, on the grounds of handicap, race, color, or national origin, or for any other reason, be subjected to discrimination under any program or activity for which the provider receives payment from the agency.

(12) *The Agency for Health Care Administration shall develop a uniform application process for approving providers of medical assistance and related services rendered to Medicaid recipients through the state's Medicaid waiver programs. The process developed must eliminate the necessity for Medicaid waiver providers to submit separate applications to provide the same product or service for more than one Medicaid waiver program. A Medicaid waiver provider application that is approved by the agency may be considered if that applicant also applies to become an approved provider for an additional waiver program, if the product or service is an allowable expense under that program.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 15, after the semicolon (;) insert: amending s. 409.907, F.S.; requiring the agency to develop a uniform application process for Medicaid providers who serve recipients through Medicaid waiver programs; providing criteria;

Senator Saunders moved the following amendment which was adopted:

Amendment 2 (661512)(with title amendment)—On page 11, between lines 20 and 21, insert:

Section 3. Section 468.352, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 468.352, F.S., for present text.)

468.352 Definitions.—As used in this part, the term:

(1) "Board" means the Board of Respiratory Care.

(2) "Certified respiratory therapist" means any person licensed pursuant to this part who is certified by the National Board for Respiratory Care or its successor; who is employed to deliver respiratory care services, under the order of a physician licensed pursuant to chapter 458 or chapter 459, in accordance with protocols established by a hospital or other health care provider or the board; and who functions in situations of unsupervised patient contact requiring individual judgment.

(3) "Critical care" means care given to a patient in any setting involving a life-threatening emergency.

(4) "Department" means the Department of Health.

(5) "Direct supervision" means practicing under the direction of a licensed, registered, or certified respiratory therapist who is physically on the premises and readily available, as defined by the board.

(6) "Physician supervision" means supervision and control by a physician licensed under chapter 458 or chapter 459 who assumes the legal liability for the services rendered by the personnel employed in his or her office. Except in the case of an emergency, physician supervision requires the easy availability of the physician within the office or the physical presence of the physician for consultation and direction of the actions of the persons who deliver respiratory care services.

(7) "Practice of respiratory care" or "respiratory therapy" means the allied health specialty associated with the cardiopulmonary system that is practiced under the orders of a physician licensed under chapter 458 or chapter 459 and in accordance with protocols, policies, and procedures established by a hospital or other health care provider or the board, including the assessment, diagnostic evaluation, treatment, management, control, rehabilitation, education, and care of patients in all care settings.

(8) "Registered respiratory therapist" means any person licensed under this part who is registered by the National Board for Respiratory Care or its successor, and who is employed to deliver respiratory care services under the order of a physician licensed under chapter 458 or chapter 459, in accordance with protocols established by a hospital or other health care provider or the board, and who functions in situations of unsupervised patient contact requiring individual judgment.

(9) "Respiratory care practitioner" means any person licensed under this part who is employed to deliver respiratory care services, under direct supervision, pursuant to the order of a physician licensed under chapter 458 or chapter 459.

(10) "Respiratory care services" includes:

(a) Evaluation and disease management.

(b) Diagnostic and therapeutic use of respiratory equipment, devices, or medical gas.

(c) Administration of drugs, as duly ordered or prescribed by a physician licensed under chapter 458 or chapter 459 and in accordance with protocols, policies, and procedures established by a hospital or other health care provider or the board.

(d) Initiation, management, and maintenance of equipment to assist and support ventilation and respiration.

(e) Diagnostic procedures, research, and therapeutic treatment and procedures, including measurement of ventilatory volumes, pressures, and flows; specimen collection and analysis of blood for gas transport and acid/base determinations; pulmonary-function testing; and other related physiological monitoring of cardiopulmonary systems.

(f) Cardiopulmonary rehabilitation.

(g) Cardiopulmonary resuscitation, advanced cardiac life support, neonatal resuscitation, and pediatric advanced life support, or equivalent functions.

(h) Insertion and maintenance of artificial airways and intravascular catheters.

(i) *Education of patients, families, the public, or other health care providers, including disease process and management programs and smoking prevention and cessation programs.*

(j) *Initiation and management of hyperbaric oxygen.*

Section 4. Section 468.355, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 468.355, F.S., for present text.)

468.355 *Licensure requirements.*—*To be eligible for licensure by the board, an applicant must be an active “Certified Respiratory Therapist” or an active “Registered Respiratory Therapist” as designated by the National Board for Respiratory Care, or its successor.*

Section 5. Section 468.368, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 468.368, F.S., for present text.)

468.368 *Exemptions.*—*This part may not be construed to prevent or restrict the practice, service, or activities of:*

(1) *Any person licensed in this state by any other law from engaging in the profession or occupation for which he or she is licensed.*

(2) *Any legally qualified person in the state or another state or territory who is employed by the United States Government or any agency thereof while such person is discharging his or her official duties.*

(3) *A friend or family member who is providing respiratory care services to an ill person and who does not represent himself or herself to be a respiratory care practitioner or respiratory therapist.*

(4) *An individual providing respiratory care services in an emergency who does not represent himself or herself as a respiratory care practitioner or respiratory therapist.*

(5) *Any individual employed to deliver, assemble, set up, or test equipment for use in a home, upon the order of a physician licensed pursuant to chapter 458 or chapter 459. This subsection does not, however, authorize the practice of respiratory care without a license.*

(6) *Any individual certified or registered as a pulmonary function technologist who is credentialed by the National Board for Respiratory Care for performing cardiopulmonary diagnostic studies.*

(7) *Any student who is enrolled in an accredited respiratory care program approved by the board, while performing respiratory care as an integral part of a required course.*

(8) *The delivery of incidental respiratory care to noninstitutionalized persons by surrogate family members who do not represent themselves as registered or certified respiratory care therapists.*

(9) *Any individual credentialed by the Underseas Hyperbaric Society in hyperbaric medicine or its equivalent as determined by the board, while performing related duties. This subsection does not, however, authorize the practice of respiratory care without a license.*

Section 6. *Effective January 1, 2005, sections 468.356 and 468.357, Florida Statutes, are repealed.*

And the title is amended as follows:

On page 1, line 15, after the semicolon (;) insert: amending s. 468.352, F.S.; revising and providing definitions applicable to the regulation of respiratory therapy; amending s. 468.355, F.S.; revising provisions relating to respiratory therapy licensure and testing requirements; amending s. 468.368, F.S.; revising exemptions from respiratory therapy licensure requirements; repealing s. 468.356, F.S., relating to the approval of educational programs; repealing s. 468.357, F.S., relating to licensure by examination;

Senator Saunders moved the following amendment:

Amendment 3 (712890)(with title amendment)—On page 11, between lines 20 and 21, insert:

Section 3. Subsections (3) and (4) of section 400.9905, Florida Statutes, are amended, and subsections (5) and (6) are added to that section, to read: (attached)

400.9905 Definitions.—

(3) “Clinic” means an entity at which health care services are provided to individuals and which tenders charges for reimbursement for such services, *including a mobile clinic and a portable equipment provider.* For purposes of this part, the term does not include and the licensure requirements of this part do not apply to:

(a) *Entities licensed or registered by the state under chapter 395; or entities licensed or registered by the state and providing only health care services within the scope of services authorized under their respective licenses granted under ss. 383.30-383.335, chapter 390, chapter 394, ~~chapter 395~~, chapter 397, this chapter except part XIII, chapter 463, chapter 465, chapter 466, chapter 478, part I of chapter 483 480, chapter 484, or chapter 651, end-stage renal disease providers authorized under 42 C.F.R. part 405, subpart U, or providers certified under 42 C.F.R. part 485, subpart B or subpart H, or any entity that provides neonatal or pediatric hospital-based healthcare services by licensed practitioners solely within a hospital licensed under chapter 395.*

(b) *Entities that own, directly or indirectly, entities licensed or registered by the state pursuant to chapter 395; or entities that own, directly or indirectly, entities licensed or registered by the state and providing only health care services within the scope of services authorized pursuant to their respective licenses granted under ss. 383.30-383.335, chapter 390, chapter 394, ~~chapter 395~~, chapter 397, this chapter except part XIII, chapter 463, chapter 465, chapter 466, chapter 478, part I of chapter 483 480, chapter 484, or chapter 651, end-stage renal disease providers authorized under 42 C.F.R. part 405, subpart U, or providers certified under 42 C.F.R. part 485, subpart B or subpart H, or any entity that provides neonatal or pediatric hospital-based healthcare services by licensed practitioners solely within a hospital licensed under chapter 395.*

(c) *Entities that are owned, directly or indirectly, by an entity licensed or registered by the state pursuant to chapter 395; or entities that are owned, directly or indirectly, by an entity licensed or registered by the state and providing only health care services within the scope of services authorized pursuant to their respective licenses granted under ss. 383.30-383.335, chapter 390, chapter 394, ~~chapter 395~~, chapter 397, this chapter except part XIII, chapter 463, chapter 465, chapter 466, chapter 478, part I of chapter 483 480, chapter 484, or chapter 651, end-stage renal disease providers authorized under 42 C.F.R. part 405, subpart U, or providers certified under 42 C.F.R. part 485, subpart B or subpart H, or any entity that provides neonatal or pediatric hospital-based healthcare services by licensed practitioners solely within a hospital licensed under chapter 395.*

(d) *Entities that are under common ownership, directly or indirectly, with an entity licensed or registered by the state pursuant to chapter 395; or entities that are under common ownership, directly or indirectly, with an entity licensed or registered by the state and providing only health care services within the scope of services authorized pursuant to its respective license granted under ss. 383.30-383.335, chapter 390, chapter 394, ~~chapter 395~~, chapter 397, this chapter except part XIII, chapter 463, chapter 465, chapter 466, chapter 478, part I of chapter 483 480, chapter 484, or chapter 651, end-stage renal disease providers authorized under 42 C.F.R. part 405, subpart U, or providers certified under 42 C.F.R. part 485, subpart B or subpart H, or any entity that provides neonatal or pediatric hospital-based healthcare services by licensed practitioners solely within a hospital licensed under chapter 395.*

(e) *An entity that is exempt from federal taxation under 26 U.S.C. s. 501(c)(3) or s. 501(c)(4), and any community college or university clinic, and any entity owned or operated by federal or state government, including agencies, subdivisions, or municipalities thereof.*

(f) *A sole proprietorship, group practice, partnership, or corporation that provides health care services by physicians covered by s. 627.419, that is directly supervised by one or more of such physicians, and that is wholly owned by one or more of those physicians or by a physician and the spouse, parent, child, or sibling of that physician.*

(g)(f) *A sole proprietorship, group practice, partnership, or corporation that provides health care services by licensed health care practitioners under chapter 457, chapter 458, chapter 459, chapter 460, chapter 461, chapter 462, chapter 463, chapter 466, chapter 467, ~~chapter 480~~, chapter 484, chapter 486, chapter 490, chapter 491, or part I, part III, part X, part XIII, or part XIV of chapter 468, or s. 464.012, which are*

wholly owned by *one or more* licensed health care practitioners ~~practitioner~~, or the licensed health care practitioners *set forth in this paragraph* ~~practitioner~~ and the spouse, parent, ~~or~~ child, or sibling of a licensed health care practitioner, so long as one of the owners who is a licensed health care practitioner is supervising the services performed therein and is legally responsible for the entity's compliance with all federal and state laws. However, a health care practitioner may not supervise services beyond the scope of the practitioner's license, *except that, for the purposes of this part, a clinic owned by a licensee in s. 456.053(3)(b) that provides only services authorized pursuant to s. 456.053(3)(b) may be supervised by a licensee specified in s. 456.053(3)(b).*

(h)(g) Clinical facilities affiliated with an accredited medical school at which training is provided for medical students, residents, or fellows.

(i) *Entities that provide only oncology or radiation therapy services by physicians licensed under chapter 458 or 459.*

(4) "Medical director" means a physician who is employed or under contract with a clinic and who maintains a full and unencumbered physician license in accordance with chapter 458, chapter 459, chapter 460, or chapter 461. However, if the clinic *does not provide services pursuant to the respective physician practice acts listed in this subsection, it is limited to providing health care services pursuant to chapter 457, chapter 484, chapter 486, chapter 490, or chapter 491 or part I, part III, part X, part XIII, or part XIV of chapter 468, the clinic may appoint a Florida-licensed health care practitioner who does not provide services pursuant to the respective physician practice acts listed in this subsection licensed under that chapter* to serve as a clinic director who is responsible for the clinic's activities. A health care practitioner may not serve as the clinic director if the services provided at the clinic are beyond the scope of that practitioner's license, *except that a licensee specified in s. 456.053(3)(b) that provides only services authorized pursuant to s. 456.053(3)(b) may serve as clinic director of an entity providing services as specified in s. 456.053(3)(b).*

(5) "Mobile clinic" means a movable or detached self-contained health care unit within or from which direct health care services are provided to individuals and that otherwise meets the definition of a clinic in subsection (3).

(6) "Portable equipment provider" means an entity that contracts with or employs persons to provide portable equipment to multiple locations performing treatment or diagnostic testing of individuals, that bills third-party payors for those services, and that otherwise meets the definition of a clinic in subsection (3).

Section 4. *The creation of paragraph 400.9905(3)(i), Florida Statutes, by this act is intended to clarify the legislative intent of this provision as it existed at the time the provision initially took effect as section 456.0375(1)(b), Florida Statutes, and paragraph 400.9905(3)(i), Florida Statutes, as created by this act, shall operate retroactively to October 1, 2001. Nothing in this section shall be construed as amending, modifying, limiting, or otherwise affecting in any way the legislative intent, scope, terms, prohibition, or requirements of section 456.053, Florida Statutes.*

Section 5. Subsections (1), (2), and (3) and paragraphs (a) and (b) of subsection (7) of section 400.991, Florida Statutes, are amended to read:

400.991 License requirements; background screenings; prohibitions.—

(1)(a) Each clinic, as defined in s. 400.9905, must be licensed and shall at all times maintain a valid license with the agency. Each clinic location shall be licensed separately regardless of whether the clinic is operated under the same business name or management as another clinic.

(b) *Each mobile clinic must obtain a separate health care clinic license and clinics must provide to the agency, at least quarterly, its their projected street location locations to enable the agency to locate and inspect such clinic clinics. A portable equipment provider must obtain a health care clinic license for a single administrative office and is not required to submit quarterly projected street locations.*

(2) The initial clinic license application shall be filed with the agency by all clinics, as defined in s. 400.9905, on or before July ~~March~~ 1, 2004. A clinic license must be renewed biennially.

(3) Applicants that submit an application on or before July ~~March~~ 1, 2004, which meets all requirements for initial licensure as specified in this section shall receive a temporary license until the completion of an initial inspection verifying that the applicant meets all requirements in rules authorized by s. 400.9925. However, a clinic engaged in magnetic resonance imaging services may not receive a temporary license unless it presents evidence satisfactory to the agency that such clinic is making a good faith effort and substantial progress in seeking accreditation required under s. 400.9935.

(7) Each applicant for licensure shall comply with the following requirements:

(a) As used in this subsection, the term "applicant" means individuals owning or controlling, directly or indirectly, 5 percent or more of an interest in a clinic; the medical or clinic director, or a similarly titled person who is responsible for the day-to-day operation of the licensed clinic; the financial officer or similarly titled individual who is responsible for the financial operation of the clinic; and licensed *health care practitioners* ~~medical providers~~ at the clinic.

(b) Upon receipt of a completed, signed, and dated application, the agency shall require background screening of the applicant, in accordance with the level 2 standards for screening set forth in chapter 435. Proof of compliance with the level 2 background screening requirements of chapter 435 which has been submitted within the previous 5 years in compliance with any other health care licensure requirements of this state is acceptable in fulfillment of this paragraph. *Applicants who own less than 10 percent of a health care clinic are not required to submit fingerprints under this section.*

Section 6. Subsections (9) and (11) of section 400.9935, Florida Statutes, are amended to read:

400.9935 Clinic responsibilities.—

(9) Any person or entity providing health care services which is not a clinic, as defined under s. 400.9905, may voluntarily apply for a certificate of exemption from licensure under its exempt status with the agency on a form that sets forth its name or names and addresses, a statement of the reasons why it cannot be defined as a clinic, and other information deemed necessary by the agency. *An exemption is not transferable. The agency may charge an applicant for a certificate of exemption \$100 or the actual cost, whichever is less, for processing the certificate.*

(11)(a) Each clinic engaged in magnetic resonance imaging services must be accredited by the Joint Commission on Accreditation of Healthcare Organizations, the American College of Radiology, or the Accreditation Association for Ambulatory Health Care, within 1 year after licensure. However, a clinic may request a single, 6-month extension if it provides evidence to the agency establishing that, for good cause shown, such clinic can not be accredited within 1 year after licensure, and that such accreditation will be completed within the 6-month extension. After obtaining accreditation as required by this subsection, each such clinic must maintain accreditation as a condition of renewal of its license.

(b) The agency may ~~deny~~ *disallow* the application or *revoke the license* of any entity formed for the purpose of avoiding compliance with the accreditation provisions of this subsection and whose principals were previously principals of an entity that was unable to meet the accreditation requirements within the specified timeframes. The agency may adopt rules as to the accreditation of magnetic resonance imaging clinics.

Section 7. Subsections (1) and (3) of section 400.995, Florida Statutes, are amended, and subsection (10) is added to said section, to read:

400.995 Agency administrative penalties.—

(1) The agency may *deny the application for a license renewal, revoke or suspend the license, and impose administrative fines penalties against clinics* of up to \$5,000 per violation for violations of the requirements of this part or *rules of the agency*. In determining if a penalty is to be imposed and in fixing the amount of the fine, the agency shall consider the following factors:

(a) The gravity of the violation, including the probability that death or serious physical or emotional harm to a patient will result or has resulted, the severity of the action or potential harm, and the extent to which the provisions of the applicable laws or rules were violated.

(b) Actions taken by the owner, medical director, or clinic director to correct violations.

(c) Any previous violations.

(d) The financial benefit to the clinic of committing or continuing the violation.

(3) Any action taken to correct a violation shall be documented in writing by the owner, medical director, or clinic director of the clinic and verified through followup visits by agency personnel. The agency may impose a fine and, in the case of an owner-operated clinic, revoke or deny a clinic's license when a clinic medical director or clinic director *knowingly* fraudulently misrepresents actions taken to correct a violation.

(10) *If the agency issues a notice of intent to deny a license application after a temporary license has been issued pursuant to s. 400.991(3), the temporary license shall expire on the date of the notice and may not be extended during any proceeding for administrative or judicial review pursuant to chapter 120.*

Section 8. *The agency shall refund 90 percent of the license application fee to applicants that submitted their health care clinic licensure fees and applications but were subsequently exempted from licensure by this act.*

Section 9. *Any person or entity defined as a clinic under s. 400.9905, Florida Statutes, shall not be in violation of part XIII of chapter 400, Florida Statutes, due to failure to apply for a clinic license by March 1, 2004, as previously required by s. 400.991, Florida Statutes. Payment to any such person or entity by an insurer or other person liable for payment to such person or entity may not be denied on the grounds that the person or entity failed to apply for or obtain a clinic license before March 1, 2004.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 15, after the semicolon (;) insert: amending s. 400.9905, F.S.; revising the definitions of "clinic" and "medical director" and defining "mobile clinic" and "portable equipment provider" for purposes of the Health Care Clinic Act; providing that certain entities providing oncology or radiation therapy services are exempt from the licensure requirements of part XIII of ch. 400, F.S.; providing legislative intent with respect to such exemption; providing for retroactive application; amending s. 400.991, F.S.; requiring each mobile clinic to obtain a health care clinic license; requiring a portable equipment provider to obtain a health care clinic license for a single office and exempting such a provider from submitting certain information to the Agency for Health Care Administration; revising the date by which an initial application for a health care clinic license must be filed with the agency; revising the definition of "applicant"; amending s. 400.9935, F.S.; providing that an exemption from licensure is not transferable; providing that the agency may charge a fee of applicants for certificates of exemption; providing that the agency may deny an application or revoke a license under certain circumstances; amending s. 400.995, F.S.; providing that the agency may deny, revoke, or suspend specified licenses and impose fines for certain violations; providing that a temporary license expires after a notice of intent to deny an application is issued by the agency; providing that persons or entities made exempt under the act and which have paid the clinic licensure fee to the agency are entitled to a partial refund from the agency; providing that certain persons or entities are not in violation of part XIII of ch. 400, F.S., due to failure to apply for a clinic license by a specified date; providing that certain payments may not be denied to such persons or entities for failure to apply for or obtain a clinic license before a specified date;

MOTION

On motion by Senator Saunders, the rules were waived to allow the following amendments to be considered:

Senator Saunders moved the following amendments to **Amendment 3** which were adopted:

Amendment 3A (562582)(with title amendment)—On page 6, between lines 1 and 2, insert:

(7) *"Chief financial officer" means an individual who has at least a minimum of a bachelor's degree from an accredited university in account-*

ing, finance, or a related field and is the person responsible for the preparation of the clinic billing.

And the title is amended as follows:

On page 11, lines 3 and 4, delete those lines and insert: and defining "mobile clinic," "portable equipment provider," and "chief financial officer," for purposes of the Health

Amendment 3B (825704)(with title amendment)—On page 10, line 23, insert:

Section 10. Subsections (1), (9), and (11) of section 400.9935, Florida Statutes, are amended to read:

400.9935 Clinic responsibilities.—

(1) Each clinic shall appoint a medical director or clinic director who shall agree in writing to accept legal responsibility for the following activities on behalf of the clinic. The medical director or the clinic director shall:

(a) Have signs identifying the medical director or clinic director posted in a conspicuous location within the clinic readily visible to all patients.

(b) Ensure that all practitioners providing health care services or supplies to patients maintain a current active and unencumbered Florida license.

(c) Review any patient referral contracts or agreements executed by the clinic.

(d) Ensure that all health care practitioners at the clinic have active appropriate certification or licensure for the level of care being provided.

(e) Serve as the clinic records owner as defined in s. 456.057.

(f) Ensure compliance with the recordkeeping, office surgery, and adverse incident reporting requirements of chapter 456, the respective practice acts, and rules adopted under this part.

(g) Conduct systematic reviews of clinic billings to ensure that the billings are not fraudulent or unlawful. Upon discovery of an unlawful charge, the medical director or clinic director shall take immediate corrective action. *If the clinic performs only the technical component of magnetic resonance imaging, static radiographs, computed tomography, or position emission tomography, and provides the professional interpretation of such services, in a fixed facility that is accredited by the Joint Commission on Accreditation of Healthcare Organizations or the Accreditation Association for Ambulatory Health Care, and the American College of Radiology; and if, in the preceding quarter, the percentage of scans performed by that clinic which was billed to all personal injury protection insurance carriers was less than 15 percent, the chief financial officer of the clinic may, in a written acknowledgement provided to the agency, assume the responsibility for the conduct of the systematic reviews of clinic billings to ensure that the billings are not fraudulent or unlawful.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 12, line 12, after the semicolon (;) insert: assigning responsibilities for ensuring billing;

Amendment 3 as amended was adopted.

MOTION

On motion by Senator Bennett, the rules were waived to allow the following amendment to be considered:

Senator Bennett moved the following amendment which was adopted:

Amendment 4 (561914)(with title amendment)—On page 11, between lines 20 and 21, insert:

Section 3. Present subsections (3) and (4) of section 395.1027, Florida Statutes, are redesignated as subsections (4) and (5), respectively, and a new subsection (3) is added to that section, to read:

395.1027 Regional poison control centers.—

(3) Upon request, a licensed facility shall release to a regional poison control center any patient information that is necessary for case management of poison cases.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 15, after the semicolon (;) insert: amending s. 395.1027, F.S.; requiring a hospital or other facility licensed under ch. 395, F.S., to release patient information to a regional poison control center under specified circumstances;

Pursuant to Rule 4.19, **CS for SB 560** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Aronberg—

SB 2082—A bill to be entitled An act relating to a public records exemption; amending s. 119.07, F.S.; providing an exemption from public records requirements for the names, home addresses, telephone numbers, social security numbers, and photographs of children who participate in government-sponsored recreation programs or camps, the names and locations of the schools attended by such children, and the names, home addresses, telephone numbers, and social security numbers of the parents or guardians of such children; providing for future review and repeal of the exemption; providing a statement of public necessity; providing an effective date.

—was read the second time by title.

MOTION

On motion by Senator Aronberg, the rules were waived to allow the following amendments to be considered:

Senator Aronberg moved the following amendments which were adopted:

Amendment 1 (864662)(with title amendment)—On page 1, line 25 through page 2, line 2, delete those lines and insert:

(hh) Any information that would identify or help to locate a child who participates in government-sponsored recreation programs or camps or the parents or guardians of such child, including, but not limited to, the name, home address, telephone number, social security number, or photograph of the child and the names, home addresses, and social security numbers of parents or guardians of such child, is exempt from subsection (1) and s. 24(a), Art. I of the State Constitution. Information made exempt pursuant to this paragraph may be disclosed by court order upon a showing of good cause. This exemption applies to records held before, on, or after the effective date of this exemption.

And the title is amended as follows:

On page 1, lines 5-13, delete those lines and insert: information that would identify or help to locate a child who participates in government-sponsored recreation programs or camps or the parents or guardians of such child, including, but not limited to, the name, home address, telephone number, social security number, and photograph of such child, and the names and locations of schools attended by such child, and the names, home addresses, telephone numbers, and social security numbers of the parents or guardians of such child; providing for disclosure of such information by court order upon a showing of good cause; providing for retroactive effect of the exemption; providing for future review and

Amendment 2 (834520)—On page 2, lines 10-19, delete those lines and insert: necessity that any information that would identify or help to locate a child who participates in government-sponsored recreation programs or camps or the parents or guardians of such child, including, but not limited to, the name, home address, telephone number, social security number, and photograph of such child, the names, home addresses, and social security numbers of the parents or guardians of such child, be held exempt from public records requirements because revealing such information could create the opportunity for stalking, harassment, abduction, or abuse of such children. Information that identifies a parent

or guardian of such a child could be used indirectly to lead to the location of the child. As the public availability of this information could create the opportunity for stalking, harassment, abduction, or abuse of these children, it would be contrary to the state's compelling interest in preserving the public safety to permit the release of such information. Protecting such personal information of these children and their parents or guardians helps to minimize the opportunity for stalking, harassment, abduction, or abuse and thus it is a public necessity that such information be held confidential and exempt from public records requirements.

Pursuant to Rule 4.19, **SB 2082** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

MOTION

On motion by Senator Villalobos, the rules were waived and time of recess was extended until completion of the Special Order Calendar, motions and announcements.

On motion by Senator Wise—

CS for SB 2674—A bill to be entitled An act relating to the statewide and local advocacy councils; amending s. 402.164, F.S.; providing additional definitions; amending s. 402.165, F.S.; requiring the Florida Statewide Advocacy Council to be located in the Executive Office of the Governor; revising the membership of the statewide advocacy council; requiring the Governor to select an executive director; directing the statewide advocacy council to establish interagency agreements with certain state agencies; amending s. 402.166, F.S., relating to local advocacy councils; providing that the local council has the same authority to access records from facilities, programs, and clients as does the statewide advocacy council; amending s. 402.167, F.S.; directing each state agency to provide information about the statewide and local advocacy councils; transferring the local advocacy councils by a type-two transfer from the Department of Children and Family Services to the Florida Statewide Advocacy Council; directing the department to identify positions; providing an effective date.

—was read the second time by title.

Senator Wise moved the following amendment which was adopted:

Amendment 1 (033684)(with title amendment)—On page 2, line 2 through page 20, line 19, delete those lines and insert:

(a) "Access" means a visual inspection or the copying of the records maintained by the state agency, facility, provider, or contractor.

(b)(a) "Client" means a client as defined in s. 393.063, s. 394.67, s. 397.311, or s. 400.960, a forensic client or client as defined in s. 916.106, a child or youth as defined in s. 39.01, a child as defined in s. 827.01, a family as defined in s. 414.0252, a participant as defined in s. 400.551, a resident as defined in s. 400.402, a Medicaid recipient or recipient as defined in s. 409.901, a child receiving childcare as defined in s. 402.302, a disabled adult as defined in s. 410.032 or s. 410.603, or a victim as defined in s. 39.01 or s. 415.102 as each definition applies within its respective chapter.

(c)(b) "Client services" means services which are provided to a client by a state agency or a service provider operated, funded, or contracted by the state.

(d) "Council" or "statewide council" means the Florida Statewide Advocacy Council.

(e) "Local council" or "local advocacy council" means one of the local advocacy councils located in this state, under the supervision of the Florida Statewide Advocacy Council.

Section 2. Section 402.165, Florida Statutes, is amended to read:

402.165 Florida Statewide Advocacy Council; confidential records and meetings.—

(1) ~~The Statewide Human Rights Advocacy Committee within the Department of Children and Family Services is redesignated as The~~

Florida Statewide Advocacy Council shall be located in the Executive Office of the Governor, but may be assigned by the Governor for administrative support purposes to any Governor's agency. Members of the council shall represent the interests of clients who are served by state agencies that provide client services. ~~The Department of Children and Family Services shall provide administrative support and service to the statewide council to the extent requested by the executive director within available resources.~~ The statewide council is not subject to control, supervision, or direction by any state agency providing client services ~~the Department of Children and Family Services~~ in the performance of its duties. The council shall consist of not less than 15 and not more than 20 residents of this state, one from each service area designated by the statewide council, who broadly represent the interests of the public and the clients of the state agencies that provide client services. The members shall be representative of four groups of state residents as follows: ~~a one~~ provider who delivers client services as defined in s. 492.164(2); ~~a two~~ nonsalaried representative representatives of nonprofit agencies or civic groups; ~~a representative four~~ representatives of consumer groups who ~~is~~ are currently receiving, or has received, one or more client services within the past 4 years, ~~at least one of whom must be a consumer of one or more client services;~~ and two residents of the state who do not represent any of the foregoing groups, but may represent a one of whom represents the health-related profession or professions and one of whom represents the legal profession. In appointing the representative of the health-related professions, the appointing authority shall give priority of consideration to a physician licensed under chapter 458 or chapter 459; and, in appointing the representative of the legal profession, the appointing authority shall give priority of consideration to a member in good standing of The Florida Bar. Of the remaining members, no more than one shall be an elected official; ~~no more than one shall be a health professional; no more than one shall be a legal professional; no more than one shall be a provider; no more than two shall be nonsalaried representatives of nonprofit agencies or civic groups; and no more than one shall be an individual whose primary area of interest, experience, or expertise is a major client group of a client services group that is not represented on the council at the time of appointment.~~ Except for the member who is an elected public official, each member of the statewide council must be given priority consideration if he or she has ~~have~~ served as a member of a local Florida advocacy council, with priority consideration given to an applicant who has served a full term on a local council. Persons related to each other by consanguinity or affinity within the third degree may not serve on the statewide council at the same time.

(2) Members of the statewide council shall be appointed to serve terms of 4 years. A member may not serve more than two full consecutive terms.

(3) If a member of the statewide council fails to attend two-thirds of the regular council meetings during the course of a year, the position held by the member may be deemed vacant by the council. The Governor shall fill the vacancy according pursuant to subsection (4). If a member of the statewide council violates this section or procedures adopted under this section, the council may recommend to the Governor that the member be removed.

(4) The Governor may shall fill a each vacancy on the statewide council from a list of nominees submitted by the statewide council or appoint any qualified person. A list of candidates may be submitted to the statewide council by the local council in the service area from which the vacancy occurs. Priority of consideration shall be given to the appointment of an individual who is receiving one or more client services and whose primary interest, experience, or expertise lies with a major client group that is not represented on the council at the time of the appointment. If an appointment is not made within 60 days after a vacancy occurs on the statewide council, the vacancy may be filled by a majority vote of the statewide council without further action by the Governor. A person who is employed by any state agency in client services may not be appointed to the statewide council.

(5)(a) Members of the statewide council shall receive no compensation, but are entitled to be reimbursed for per diem and travel expenses in accordance with s. 112.061.

(b) The Governor council shall select an executive director who shall serve at the pleasure of the Governor council and shall perform the duties delegated to him or her by the council. The compensation of the executive director and staff shall be established in accordance with the rules of the Selected Exempt Service.

(c) The council may apply for, receive, and accept grants, gifts, donations, bequests, and other payments including money or property, real or personal, tangible or intangible, and service from any governmental or other public or private entity or person and make arrangements as to the use of same.

(d) The statewide council shall annually prepare a budget request that, ~~is not to be changed by department staff~~ after it is approved by the council, but shall be submitted to the Governor for transmittal to the Legislature. The budget shall include a request for funds to carry out the activities of the statewide council and the local councils.

(6) The members of the statewide council shall elect a chair and a vice chair to terms of 1 year. A person may not serve as chair or vice chair for more than two full consecutive terms.

(7) The responsibilities of the statewide council include, but are not limited to:

(a) Serving as an independent third-party mechanism for protecting the constitutional and human rights of clients within programs or facilities operated, funded, or contracted by any state agency that provides client services.

(b) Monitoring, by site visit and through access to inspection of records the delivery and use of services, programs, or facilities operated, funded, or contracted by any state agency that provides client services, for the purpose of preventing abuse or deprivation of the constitutional and human rights of clients. The statewide council may conduct an unannounced site visit or monitoring visit that involves the inspection of records if the visit is conditioned upon a complaint. A complaint may be generated by the council itself, after consulting with the Governor's office, if information from any state agency that provides client services or from other sources indicates a situation at the program or facility that indicates possible abuse or neglect or deprivation of the constitutional and human rights of clients. The statewide council shall establish and follow uniform criteria for the review of information and generation of complaints. Routine program monitoring and reviews that do not require an examination of records may be made unannounced.

(c) Receiving, investigating, and resolving reports of abuse or deprivation of constitutional and human rights referred to the statewide council by a local council. If a matter constitutes a threat to the life, safety, or health of clients or is multiservice-area multidistrict in scope, the statewide council may exercise its such powers without the necessity of a referral from a local council.

(d) Reviewing existing programs or services and new or revised programs of the state agencies that provide client services and making recommendations as to how the rights of clients are affected.

(e) Submitting an annual report to the Legislature, no later than December 30 of each calendar year, concerning activities, recommendations, and complaints reviewed or developed by the council during the year.

(f) Conducting meetings at least six times a year at the call of the chair and at other times at the call of the Governor or by written request of six members of the council.

(g) Developing and adopting uniform procedures to be used to carry out the purpose and responsibilities of the statewide council and the local councils, which procedures shall include, but need not be limited to, the following:

1.—The responsibilities of the statewide council and the local councils;

2.—The organization and operation of the statewide council and the local councils, including procedures for replacing a member, formats for maintaining records of council activities, and criteria for determining what constitutes a conflict of interest for purposes of assigning and conducting investigations and monitoring;

3.—Uniform procedures for the statewide council and the local councils relating to receiving and investigating reports of abuse or deprivation of constitutional or human rights;

4.—The responsibilities and relationship of the local councils to the statewide council;

~~5.—The relationship of the statewide council to the state agencies that receive and investigate reports of abuse and neglect of clients of state agencies, including the way in which reports of findings and recommendations related to reported abuse or neglect are given to the appropriate state agency that provides client services;~~

~~6.—Provision for cooperation with the State Long-Term Care Ombudsman Council;~~

~~7.—Procedures for appeal. An appeal to the statewide council is made by a local council when a valid complaint is not resolved at the local level. The statewide council may appeal an unresolved complaint to the secretary or director of the appropriate state agency that provides client services. If, after exhausting all remedies, the statewide council is not satisfied that the complaint can be resolved within the state agency, the appeal may be referred to the Governor;~~

~~8.—Uniform procedures for gaining access to and maintaining confidential information; and~~

~~9.—Definitions of misfeasance and malfeasance for members of the statewide council and local councils.~~

(h) *Supervising the operations of the local councils and monitoring the performance and activities of all local councils and providing technical assistance to members and staff of local councils.*

(i) Providing for the development and presentation of a standardized training program for members of local councils.

(j) *Developing and maintaining interagency agreements between the council and the state agencies providing client services. The interagency agreements shall address the coordination of efforts and identify the roles and responsibilities of the statewide and local councils and each agency in fulfillment of their responsibilities, including access to records.*

(8)(a) In the performance of its duties, the statewide council shall have:

1. Authority to receive, investigate, seek to conciliate, hold hearings on, and act on complaints that allege any abuse or deprivation of constitutional or human rights of persons who receive client services from any state agency.

2. Access to all client records, files, and reports from any program, service, or facility that is operated, funded, or contracted by any state agency that provides client services and any records that are material to its investigation and are in the custody of any other agency or department of government. The council's investigation or monitoring shall not impede or obstruct matters under investigation by law enforcement agencies or judicial authorities. Access shall not be granted if a specific procedure or prohibition for reviewing records is required by federal law and regulation that supersedes state law. Access shall not be granted to the records of a private licensed practitioner who is providing services outside the state agency, or outside a state facility, and whose client is competent and refuses disclosure.

3. Standing to petition the circuit court for access to client records that are confidential as specified by law. The petition shall state the specific reasons for which the council is seeking access and the intended use of such information. The circuit court may authorize council access to the such records upon a finding that such access is directly related to an investigation regarding the possible deprivation of constitutional or human rights or the abuse of a client. Original client files, agency records, and reports may shall not be removed from a state agency, but copies must be provided to the council and the local councils at the agency's expense. Under no circumstance shall the council have access to confidential adoption records once the adoption is finalized by a court in accordance with ss. 39.0132, 63.022, and 63.162. Upon completion of a general investigation of practices and procedures of a state agency, the statewide council shall report its findings to that agency.

(b) All information obtained or produced by the statewide council that is made confidential by law, that relates to the identity of any client or group of clients subject to the protections of this section, or that relates to the identity of an individual who provides information to the council about abuse or about alleged violations of constitutional or human rights, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(c) Portions of meetings of the statewide council that relate to the identity of any client or group of clients subject to the protections of this section, that relate to the identity of an individual who provides information to the council about abuse or about alleged violations of constitutional or human rights, or wherein testimony is provided relating to records otherwise made confidential by law, are exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution.

(d) All records prepared by members of the statewide council that reflect a mental impression, investigative strategy, or theory are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until the investigation is completed or until the investigation ceases to be active. For purposes of this section, an investigation is considered "active" while the such investigation is being conducted by the statewide council with a reasonable, good faith belief that it may lead to a finding of abuse or of a violation of human rights. An investigation does not cease to be active so long as the statewide council is proceeding with reasonable dispatch and there is a good faith belief that action may be initiated by the council or other administrative or law enforcement agency.

(e) Any person who knowingly and willfully discloses any such confidential information commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 3. Section 402.166, Florida Statutes, is amended to read:

402.166 Florida local advocacy councils; confidential records and meetings.—

(1) ~~Each district human rights advocacy committee within each service area of the Department of Children and Family Services is redesignated as the Florida Local Advocacy Council. The local councils are subject to direction from and the supervision of the statewide council. The statewide council Department of Children and Family Services shall assign staff to provide administrative support to the local councils, and staff assigned to these positions shall perform the functions required by the local councils without interference from the department. The local councils shall direct the activities of staff assigned to them to the extent necessary for the local councils to carry out their duties. The number and areas of responsibility of the local councils, not to exceed 46 councils statewide, shall be determined by the statewide council and shall be consistent with judicial circuit boundaries. Local councils shall meet at facilities under their jurisdiction whenever possible.~~

(2) Each local council shall have no fewer than 7 members and no more than 15 members, no more than 4 of whom are or have been recipients of one or more client services within the last 4 years, except that one member of this group may be an immediate relative or legal representative of a current or former client; two providers who deliver client services as defined in s. 402.164(2); and two representatives of professional organizations, one of whom represents the health-related professions and one of whom represents the legal profession. Priority of consideration shall be given to the appointment of at least one medical or osteopathic physician, as defined in chapters 458 and 459, and one member in good standing of The Florida Bar. Priority of consideration shall also be given to the appointment of an individual who is receiving client services and whose primary interest, experience, or expertise lies with a major client group not represented on the local council at the time of the appointment. A person who is employed in client services by any state agency may not be appointed to the local council. No more than three individuals who are providing contracted services for clients to any state agency may serve on the same local council at the same time. Persons related to each other by consanguinity or affinity within the third degree may not serve on the same local council at the same time. All members of local councils must successfully complete a standardized training course for council members within 3 months after their appointment to a local council. A member may not be assigned to an investigation that requires access to confidential information prior to the completion of the training course. After he or she completes the required training course, a member of a local council may not be prevented from participating in any activity of that local council, including investigations and monitoring, except due to a conflict of interest as described in the procedures established by the statewide council under pursuant to subsection (7).

(3)(a) With respect to existing local councils, each member shall serve a term of 4 years. Upon expiration of a term and in the case of any other vacancy, the local council shall appoint a replacement by majority

vote of the local council, subject to the approval of the Governor. A member may serve no more than two full consecutive terms.

(b)1. The Governor shall appoint the first four members of any newly created local council; and those four members shall select the remaining members, subject to approval of the Governor. If any of the first four members are not appointed within 60 days after a request is submitted to the Governor, those members may be appointed by a majority vote of the statewide council without further action by the Governor.

2. Members shall serve for no more than two full consecutive terms of 4 years, except that at the time of initial appointment, terms shall be staggered so that approximately one-half of the members first appointed shall serve for terms of 4 years and the remaining members shall serve for terms of 2 years. Vacancies shall be filled as provided in subparagraph 1.

(c) If no action is taken by the Governor to approve or disapprove a replacement of a member ~~under~~ pursuant to this subsection within 60 30 days after the local council has notified the Governor of the appointment, then the appointment of the replacement may be considered approved by the ~~Governor statewide council~~.

(4) Each local council shall elect a chair and a vice chair for a term of 1 year. A person may not serve as chair or vice chair for more than two consecutive terms. The chair's and vice chair's terms expire on September 30 of each year.

(5) If a local council member fails to attend two-thirds of the regular local council meetings during the course of a year, the local council may replace the member. If a member of a local council violates this section or procedures adopted under this section, the local council may recommend to the Governor that the member be removed.

(6) A member of a local council shall receive no compensation but is entitled to be reimbursed for per diem and travel expenses as provided in s. 112.061. Members may be provided reimbursement for long-distance telephone calls if ~~the~~ such calls were necessary to an investigation of an abuse or deprivation of constitutional or human rights.

(7) A local council shall first seek to resolve a complaint with the appropriate local administration, agency, or program; any matter not resolved by the local council shall be referred to the statewide council. A local council shall comply with appeal procedures established by the statewide council. The duties, actions, and procedures of both new and existing local councils shall conform to ss. 402.164-402.167. The duties of each local council shall include, but are not limited to:

(a) Serving as an independent third-party mechanism for protecting the constitutional and human rights of any client within a program or facility operated, funded, or contracted by a state agency providing client services *in the local services area*.

(b) Monitoring by site visit and ~~access to inspection of~~ records the delivery and use of services, programs, or facilities operated, funded, or contracted by a state agency that provides client services, for the purpose of preventing abuse or deprivation of the constitutional and human rights of clients. A local council may conduct an unannounced site visit or monitoring visit that involves ~~access to the inspection of~~ records if the visit is conditioned upon a complaint. A complaint may be generated by the council itself if information from a state agency that provides client services or from other sources indicates a situation at the program or facility that indicates possible abuse or neglect or deprivation of constitutional and human rights of clients. The local council shall follow uniform criteria established by the statewide council for the review of information and generation of complaints. Routine program monitoring and reviews that do not require an examination of records may be made unannounced.

(c) Receiving, investigating, and resolving reports of abuse or deprivation of constitutional and human rights ~~by a state agency or contracted service provider in the local service area~~.

(d) Reviewing and making recommendations regarding how a client's constitutional or human rights might be affected by the client's participation in a proposed research project, prior to implementation of the project.

~~(e) Reviewing existing programs and proposed new or revised programs of client services and making recommendations as to how these~~

~~programs and services affect or might affect the constitutional or human rights of clients.~~

(e)(f) Appealing to the statewide council any complaint unresolved at the local level. Any matter that constitutes a threat to the life, safety, or health of a client or is *multiservice area* ~~multidistrict~~ in scope shall automatically be referred to the statewide council.

(f)(g) Submitting an annual report by September 30 to the statewide council concerning activities, recommendations, and complaints reviewed or developed by the *local* council during the year.

(g)(h) Conducting meetings at least six times a year at the call of the chair and at other times at the call of the Governor, at the call of the statewide council, or by written request of a majority of the members of the *local* council.

(8)(a) In the performance of its duties, a local council shall have *the same authority to access client records, state agency files, reports from any program or service, records of contractors and providers, and records from any facility operated, funded, or under contract with a state agency as specified in s. 402.165(8)(a):*

~~1.—Access to all client records, files, and reports from any program, service, or facility that is operated, funded, or contracted by any state agency that provides client services and any records that are material to its investigation and are in the custody of any other agency or department of government. The council's investigation or monitoring shall not impede or obstruct matters under investigation by law enforcement agencies or judicial authorities. Access shall not be granted if a specific procedure or prohibition for reviewing records is required by federal law and regulation that supersedes state law. Access shall not be granted to the records of a private licensed practitioner who is providing services outside state agencies and facilities and whose client is competent and refuses disclosure.~~

~~2.—Standing to petition the circuit court for access to client records that are confidential as specified by law. The petition shall state the specific reasons for which the council is seeking access and the intended use of such information. The court may authorize access to such records upon a finding that such access is directly related to an investigation regarding the possible deprivation of constitutional or human rights or the abuse of a client. Original client files, records, and reports shall not be removed from a state agency. Upon no circumstances shall the council have access to confidential adoption records once the adoption is finalized in court in accordance with ss. 39.0132, 63.022, and 63.162. Upon completion of a general investigation of practices and procedures followed by a state agency in providing client services, the council shall report its findings to the appropriate state agency.~~

(b) All information obtained or produced by a local council that is made confidential by law, that relates to the identity of any client or group of clients subject to the protection of this section, or that relates to the identity of an individual who provides information to the *local* council about abuse or about alleged violations of constitutional or human rights, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(c) Portions of meetings of a local council that relate to the identity of any client or group of clients subject to the protections of this section, that relate to the identity of an individual who provides information to the *local* council about abuse or about alleged violations of constitutional or human rights, or *when wherein* testimony is provided relating to records otherwise made confidential by law, are exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution.

(d) All records prepared by members of a local council that reflect a mental impression, investigative strategy, or theory are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until the investigation is completed or until the investigation ceases to be active. For purposes of this section, an investigation is considered "active" while *the* such investigation is being conducted by a local council with a reasonable, good faith belief that it may lead to a finding of abuse or of a violation of constitutional or human rights. An investigation does not cease to be active so long as the *local* council is proceeding with reasonable dispatch and there is a good faith belief that action may be initiated by the *local* council or other administrative or law enforcement agency.

(e) Any person who knowingly and willfully discloses any such confidential information commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 4. Section 402.167, Florida Statutes, is amended to read:

402.167 Duties of state agencies that provide client services relating to the Florida Statewide Advocacy Council and the Florida local advocacy councils.—

~~(1) Each state agency that provides client services shall adopt rules that are consistent with law, amended to reflect any statutory changes, and that address at least the following:~~

~~(a) Procedures by which staff of state agencies refer reports of abuse of clients to the Florida local advocacy councils.~~

~~(b) Procedures by which client information is made available to members of the Florida Statewide Advocacy Council and the Florida local advocacy councils.~~

~~(c) Procedures by which recommendations made by the statewide and local councils will be incorporated into policies and procedures of the state agencies.~~

~~(2) The Department of Children and Family Services shall provide for the location of local councils in area offices and shall provide necessary equipment and office supplies, including, but not limited to, clerical and word processing services, photocopiers, telephone services, and stationery and other necessary supplies, and shall establish the procedures by which council members are reimbursed for authorized expenditures.~~

~~(3) The secretaries or directors of the state agencies shall ensure the full cooperation and assistance of employees of their respective state agencies with members and staff of the statewide and local councils. The secretary or director of each state agency providing client services shall notify its contract, service, and treatment providers of the powers, duties, and responsibilities of the statewide and local councils. Further, the Secretary of Children and Family Services shall ensure that, to the extent possible, staff assigned to the statewide council and local councils are free of interference from or control by the department in performing their duties relative to those councils.~~

Section 5. *The Florida Statewide Advocacy Council, its three full-time equivalent positions and associated expense funding, the local councils, and the toll-free complaint line are hereby transferred by a type two transfer, pursuant to section 20.06(2), Florida Statutes, from the Department of Children and Family Services to the Florida Statewide Advocacy Council. The Department of Children and Family Services is directed to identify 10 additional full-time equivalent positions funded from the General Revenue Fund, which positions are hereby transferred by a type two transfer, pursuant to section 20.06(2), Florida Statutes, to the Florida Statewide Advocacy Council for support of the local councils.*

And the title is amended as follows:

On page 1, lines 4-24, delete those lines and insert: providing definitions; amending s. 402.165, F.S.; requiring the Florida Statewide Advocacy Council to be located in the Executive Office of the Governor; removing the requirement for the Department of Children and Family Services to provide administrative support; revising the membership of the statewide advocacy council; providing priority consideration for certain candidates for the statewide council; requiring the Governor to select an executive director; providing that such director shall serve at the pleasure of the Governor; removing a restriction on the preparation of the annual budget; requiring the council to consult with the Governor before generating a complaint; revising council duties and responsibilities; directing the council to establish interagency agreements with certain state agencies; requiring copies of certain files, records, and reports to be provided to the council at the agency's expense; amending s. 402.166, F.S.; deleting references to administration by the department; providing clarification for duties performed by a local council; revising the period in which the Governor may approve or disapprove an appointment; removing authority to review certain programs; providing that the local council has the same authority to access records from facilities, programs, and clients as does the statewide advocacy council; amending s. 402.167, F.S.; directing each state agency that provides client services to provide certain information about the statewide advocacy and local councils; transferring the Florida Statewide Advocacy Council, certain

positions, local councils, and a toll-free complaint line by a type two transfer from the Department of Children and Family Services to the Florida Statewide Advocacy Council; directing the department to identify positions to be transferred by a type two transfer to the Florida Statewide Advocacy Council for support of the local councils; providing an

Pursuant to Rule 4.19, **CS for SB 2674** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Atwater—

CS for CS for SB 2842—A bill to be entitled An act relating to trauma care center care services; amending s. 381.74, F.S.; requiring hospitals and trauma centers to provide data on moderate-to-severe brain or spinal cord injuries to the Department of Health; amending s. 381.745, F.S.; defining “department” for purposes of the “Charlie Mack Overstreet Brain or Spinal Cord Injuries Act”; amending s. 395.40, F.S.; revising legislative findings; revising duties of the Department of Health to implement and plan for a statewide trauma system; amending s. 395.4001, F.S.; revising definitions; amending s. 395.401, F.S.; revising components for local and regional trauma services system plans; correcting references to the term “trauma center”; amending s. 395.4015, F.S.; requiring that the boundaries of the trauma regions administered by the Department of Health be coterminous with the boundaries of the regional domestic security task forces established within the Department of Law Enforcement; providing exceptions for certain interlocal agreements for trauma services in a regional system; eliminating requirements for the Department of Health to develop the minimum components for systems plans in defined trauma regions; amending s. 395.402, F.S.; providing additional legislative intent with respect to trauma service areas; providing a treatment capacity for certain trauma centers; providing that current trauma service areas shall be used until the Department of Health completes an assessment of the trauma system; requiring a report; providing guidelines for such assessment; requiring annual review; amending s. 395.4025, F.S.; revising requirements for the Department of Health's development of a state trauma system plan; deleting obsolete references; correcting references to the term “trauma center”; revising requirements for the department's approval and verification of a facility as a trauma center; granting the department authority to adopt rules for the procedures and process for notification, duration, and explanation of a trauma center's termination of trauma services; revising the requirements for notice that a hospital must give before it terminates or substantially reduces trauma service; exempting from certain time limits on applications to operate as trauma centers certain hospitals in areas having no trauma center; limiting applications until the completion of a specified review; amending s. 395.403, F.S.; correcting references to the term “trauma center”; revising eligibility requirements for state funding of trauma centers; providing that trauma centers may request that their distributions from the Administrative Trust Fund be used as intergovernmental transfer funds in the Medicaid program; amending s. 395.404, F.S.; revising reporting requirements to the trauma registry data system maintained by the Department of Health; providing that hospitals and trauma centers subject to reporting trauma registry data to the department are required to comply with other duties concerning the moderate-to-severe brain or spinal cord injury registry maintained by the department; correcting references to the term “trauma center”; amending s. 395.405, F.S.; authorizing the Department of Health to adopt and enforce rules necessary to administer part II of ch. 395, F.S.; establishing a task force on distribution of funds; providing for a trauma center matching grant program; amending s. 318.14, F.S.; providing additional civil penalties for certain traffic infractions; providing for disposition of such penalties; amending s. 318.21, F.S.; providing for disposition of mandatory civil penalties; amending s. 322.0261, F.S.; revising provisions relating to driver-improvement courses; amending s. 322.27, F.S.; prescribing points for violation of a traffic-control signal; amending s. 318.18, F.S.; providing penalty for specified violation of traffic control signal devices and for failure to submit to test for impairment or intoxication; providing for distribution of moneys collected; directing the clerk of court to collect a fee for each civil and criminal violation of ch. 316, F.S.; creating s. 322.751, F.S.; directing the Department of Highway Safety and Motor Vehicles to assess specified annual surcharges against a motor vehicle licensee who accumulates eight or more points against his or her license within the previous 36 months; requiring the department to notify a licensee by first-class mail upon receipt of four points against his or her license;

directing the department to remit all such penalties to the Administrative Trust Fund in the Department of Health; amending s. 316.193, F.S.; directing the department to assess specified annual surcharges against motor vehicle licensees who have a final conviction within the previous 36 months for a DUI offense; directing the department to remit all such penalties to the Administrative Trust Fund in the Department of Health; amending s. 794.056, F.S.; providing that funds credited to the Rape Crisis Program Trust Fund shall include both funds collected as an additional court assessment in certain cases and certain funds deposited in the Administrative Trust Fund in the Department of Health; revising a requirement relating to the distribution of moneys from the trust fund pursuant to a rule by the Department of Health; creating s. 322.7525, F.S.; requiring the department to notify licensees of the surcharges and the time period in which to pay the surcharges; creating s. 322.753, F.S.; requiring the department to accept installment payments for the surcharges; providing sanctions for a licensee's failure to pay an installment; allowing the department to permit licensees to pay assessed surcharges with credit cards; requiring the department to suspend a driver's license if the licensee does not pay the surcharge or arrange for installment payments within a specified time after the notice of surcharge is sent; repealing s. 395.4035, F.S., relating to the Trauma Services Trust Fund; providing for distribution of collections in the Administrative Trust Fund in the Department of Health; providing an appropriation; providing an effective date.

—was read the second time by title.

MOTION

On motion by Senator Atwater, the rules were waived to allow the following amendments to be considered:

Senator Atwater moved the following amendments which were adopted:

Amendment 1 (345606)—On page 45, lines 1 and 2 and on page 46, lines 19 and 20, delete:

“This section does not apply to a conviction that becomes final before July 1, 2004.” and insert:

This section only applies to a violation that occurs on or after July 1, 2004.

Amendment 2 (271912)—On page 49, delete line 21 and insert: *seek approval by the Legislative Budget Commission.*

Pursuant to Rule 4.19, **CS for CS for SB 2842** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Lynn—

CS for CS for CS for SB 512—A bill to be entitled An act relating to independent living transition services; amending s. 409.1451, F.S.; authorizing community-based providers to administer the independent living transition services; deleting references to children in foster care; adding references to children in the legal custody of the Department of Children and Family Services; defining the term “legal custody of the department”; revising provisions governing a young adult's preparation for independent living; providing for the department to conduct an independent-living assessment and inform the child of the Road-to-Independence Scholarship services; requiring the department to conduct periodic staffings; providing for the identification of and assistance to children with developmental disabilities and special mental health needs; providing that delivery of services is subject to the availability of funds; stipulating the purpose of the aftercare support services; expanding the aftercare support services available; providing that aftercare support services may be provided by the department; requiring that assistance to prevent homelessness be provided expeditiously; revising the scholarship award amount; creating a High School Scholarship Program and a Postsecondary Education Scholarship Program; providing the amounts for each award; establishing eligibility criteria for each program; providing renewal criteria for each program; providing reinstatement requirements for each program; providing for the age of termination from each program; providing requirements for the needs assessment for a Postsecondary Education Scholarship; providing strategies if sufficient program funds are not available; providing for enroll-

ment periods; providing for restoration of reductions; expanding the services available through the transitional support service to include mental health and disability services; prohibiting the provision of financial assistance from the transitional support services to young adults receiving a scholarship; requiring the department to establish core expectations for independent living transition service providers; requiring each district or community-based care lead agency to annually submit a plan for meeting core expectations, a report containing outcomes, and an accounting for the previous fiscal year; requiring department authorization of plans for expenditure of specified funds; requiring the Department of Children and Family Services to provide an appeals procedure following the termination of services; abolishing the Independent Living Services Workgroup; creating the Independent Living Services Advisory Council to review and evaluate the operation of the department's independent living transition services; providing for the activities and duties of the Independent Living Services Advisory Council; requiring the Independent Living Services Advisory Council to report to the Senate and the House of Representatives; providing for membership on the advisory council; providing for the Secretary of Children and Family Services to appoint the members and establish term lengths; eliminating the department's rulemaking authority to proportionally reduce the scholarship awards; amending s. 39.701, F.S.; requiring that information from the independent-living assessment be provided to the courts; requiring the court to attempt to determine the child's preparation for independence; amending s. 1009.25, F.S.; revising requirements specifying the students who are exempt from paying tuition and fees; providing an effective date.

—was read the second time by title.

Senator Lynn moved the following amendment:

Amendment 1 (624720)(with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Section 409.1451, Florida Statutes, is amended to read:

409.1451 Independent living transition services.—

(1) SYSTEM OF SERVICES.—

(a) The Department of Children and Family Services, or its agents, or community-based providers operating pursuant to s. 409.1671 shall administer a system of independent living transition services to enable older children in foster care and young adults who exit foster care at age 18 to make the transition to self-sufficiency as adults.

(b) The goals of independent living transition services are to assist older children in foster care and young adults who were formerly in foster care to obtain life skills and education for independent living and employment, to have a quality of life appropriate for their age, and to assume personal responsibility for becoming self-sufficient adults.

(c) State funds for foster care or federal funds shall be used to establish a continuum of services for eligible children in foster care and eligible young adults who were formerly in foster care which accomplish the goals for the *system of independent living transition services by providing and provide the service components for* services for foster children, pursuant to as provided in subsection (4) (3), and services for young adults who were formerly in foster care, pursuant to as provided in subsection (5).

(d) For children in foster care, independent living transition services are not an alternative to adoption. Independent living transition services may occur concurrently with continued efforts to locate and achieve placement in adoptive families for older children in foster care.

(2) ELIGIBILITY.—

(a) The department shall serve children who *have reached are* 13 years of age but are not yet to 18 years of age and who are in foster care by providing services pursuant to through the program component of services for foster children provided in subsection (4) (3). Children to be served must meet the eligibility requirements set forth for specific services as provided in this section and through department rule.

(b) The department shall serve young adults who *have reached are* 18 years of age but are not yet to 23 years of age and who were in foster care when they turned 18 years of age by providing services pursuant to

through the program component of services for young adults who were formerly in foster care in subsection (5). Young adults Children to be served must meet the eligibility requirements set forth for specific services in this section and through department rule.

(3) *PREPARATION FOR INDEPENDENT LIVING.*—

(a) *It is the intent of the Legislature for the Department of Children and Family Services to assist older children in foster care and young adults who exit foster care at age 18 in making the transition to independent living and self-sufficiency as adults. The department shall provide such children and young adults with opportunities to participate in life skills activities in their foster families and communities which are reasonable and appropriate for their respective ages, and shall provide them with services to build the skills and increase their ability to live independently and become self-sufficient. To support the provision of opportunities for participation in age-appropriate life skills activities, the department shall:*

1. *Develop a list of age-appropriate activities and responsibilities to be offered to all children involved in independent living transition services and their foster parents.*
2. *Provide training for staff and foster parents to address the issues of older children in foster care in transitioning to adulthood, which shall include information on supporting education and employment and providing opportunities to participate in appropriate daily activities.*
3. *Develop procedures to maximize the authority of foster parents to approve participation in age-appropriate activities of children in their care.*
4. *Provide opportunities for older children in foster care to interact with mentors.*
5. *Develop and implement procedures for older children to directly access and manage the personal allowance they receive from the department in order to learn responsibility and participate in age-appropriate life skills activities to the extent feasible.*

(b) *It is further the intent of the Legislature that each child in foster care, his or her foster parents, if applicable, and the department or community-based provider set early achievement and career goals for the child's postsecondary educational and work experience. The department and community-based providers shall implement the model set forth in this paragraph to help ensure that children in foster care are ready for postsecondary education and the workplace.*

1. *Children in foster care entering the ninth grade, their foster parents, and the department or community-based provider shall be active participants in choosing a post-high school goal based upon both the abilities and interests of each child. The goal shall accommodate the needs of children served in exceptional education programs to the extent appropriate for each individual. Such children may continue to follow the courses outlined in the district school board student progression plan. Children in foster care, with the assistance of their foster parents, and the department or community-based provider shall choose one of the following postsecondary goals:*

- a. *Attending a 4-year college or university, a community college plus university, or a military academy;*
- b. *Receiving a 2-year postsecondary degree;*
- c. *Attaining a postsecondary career and technical certificate or credential; or*
- d. *Beginning immediate employment after completion of a high school diploma or its equivalent, or enlisting in the military.*

2. *In order to assist the child in foster care in achieving his or her chosen goal, the department or community-based provider shall, with the participation of the child and foster parents, identify:*

- a. *The core courses necessary to qualify for a chosen goal.*
- b. *Any elective courses which would provide additional help in reaching a chosen goal.*

c. *The grade point requirement and any additional information necessary to achieve a specific goal.*

d. *A teacher, other school staff member, employee of the department or community-based care provider, or community volunteer who would be willing to work with the child as an academic advocate or mentor if foster parent involvement is insufficient or unavailable.*

3. *In order to complement educational goals, the department and community-based providers are encouraged to form partnerships with the business community to support internships, apprenticeships, or other work-related opportunities.*

4. *The department and community-based providers shall ensure that children in foster care and their foster parents are made aware of the postsecondary goals available and shall assist in identifying the coursework necessary to enable the child to reach the chosen goal.*

(c) *All children in foster care and young adults formerly in foster care are encouraged to take part in learning opportunities that result from participation in community service activities.*

(d) *Children in foster care and young adults formerly in foster care shall be provided with the opportunity to change from one postsecondary goal to another, and each postsecondary goal shall allow for changes in each individual's needs and preferences. Any change, particularly a change that will result in additional time required to achieve a goal, shall be made with the guidance and assistance of the department or community-based provider.*

~~(4)(3) PROGRAM COMPONENT OF SERVICES FOR FOSTER CHILDREN IN FOSTER CARE.~~—The department shall provide the following transition to independence services to children in foster care who meet prescribed conditions and are determined eligible by the department. The service categories available to children in foster care which facilitate successful transition into adulthood are:

(a) *Preindependent-living services.*—

1. *Preindependent-living services include, but are not limited to, life skills training, educational field trips, and conferences. The specific services to be provided to a child shall be determined using a preindependent-living assessment.*

2. *A child who has reached 13 years of age but is not yet 15 years of age who is in foster care is eligible for such services.*

3. *The department shall conduct an annual staffing for each child who has reached 13 years of age but is not yet 15 years of age to ensure that the preindependent-living training and services to be provided as determined by the preindependent-living assessment are being received and to evaluate the progress of the child in developing the needed independent living skills.*

4. *At the first annual staffing that occurs following a child's 14th birthday, and at each subsequent staffing, the department shall provide to each child detailed information on services provided by the Road-to-Independence Scholarship Program, including requirements for eligibility; on other grants, scholarships, and waivers that are available and should be sought by the child with assistance from the department, including, but not limited to, the Bright Futures Scholarship Program, as provided in ss. 1009.53-1009.538; on application deadlines; and on grade requirements for such programs.*

5. *At the first annual staffing that occurs following a child's 14th birthday, the department shall also identify children in foster care with developmental disabilities and special mental health needs. For the children in foster care with developmental disabilities and special mental health needs, the department shall:*

- a. *Assist them with their special needs in making the transition to self-sufficiency;*
- b. *Assist them with reasonable accommodations for their disabilities;*
- c. *Assist them with accessing support and funding from other sources, such as the department's Developmental Disabilities Program Office and the department's Mental Health Program Office; and*

d. Coordinate their independent living plan with the school's individual education plan when the child is in a special education program.

6. Information related to both the preindependent-living assessment and all staffings, which shall be reduced to writing and signed by the child participant, shall be included as a part of the written report required to be provided to the court at each judicial review held pursuant to s. 39.701.

(b) Life skills services.—

1. Life skills services may include, but are not limited to, independent living skills training, *including training to develop banking and budgeting skills, interviewing skills, parenting skills*, educational support, employment training, and counseling. *Children receiving these services should also be provided with information related to social security insurance benefits and public assistance.* The specific services to be provided to a child shall be determined using an independent life skills assessment.

2. A child who has reached 15 years of age but is not yet 18 years of age who is in foster care is eligible for such services.

3. *The department shall conduct a staffing at least once every 6 months for each child who has reached 15 years of age but is not yet 18 years of age to ensure that the appropriate independent living training and services as determined by the independent life skills assessment are being received and to evaluate the progress of the child in developing the needed independent living skills.*

4. *The department shall provide to each child in foster care during the calendar month following the child's 17th birthday an independent-living assessment to determine the child's skills and abilities to live independently and become self-sufficient. Based on the results of the independent-living assessment, services and training shall be provided in order for the child to develop the necessary skills and abilities prior to the child's 18th birthday.*

5. *Information related to both the independent life skills assessment and all staffings, which shall be reduced to writing and signed by the child participant, shall be included as a part of the written report required to be provided to the court at each judicial review held pursuant to s. 39.701.*

(c) Subsidized independent living services.—

1. Subsidized independent living services are living arrangements that allow the child to live independently of the daily care and supervision of an adult in a setting that is not required to be licensed under s. 409.175.

2. A child who has reached 16 years of age but is not yet 18 years of age is eligible for such services if he or she:

a. Is adjudicated dependent under chapter 39; has been placed in licensed out-of-home care for at least 6 months prior to entering subsidized independent living; and has a permanency goal of adoption, independent living, or long-term licensed care; and

b. Is able to demonstrate independent living skills, as determined by the department, using established procedures and assessments.

3. Independent living arrangements established for a child must be part of an overall plan leading to the total independence of the child from the department's supervision. The plan must include, but need not be limited to, a description of the skills of the child and a plan for learning additional identified skills; the behavior that the child has exhibited which indicates an ability to be responsible and a plan for developing additional responsibilities, as appropriate; a plan for future educational, vocational, and training skills; present financial and budgeting capabilities and a plan for improving resources and ability; a description of the proposed residence; documentation that the child understands the specific consequences of his or her conduct in the independent living program; documentation of proposed services to be provided by the department and other agencies, including the type of service and the nature and frequency of contact; and a plan for maintaining or developing relationships with the family, other adults, friends, and the community, as appropriate.

4. Subsidy payments in an amount established by the department may be made directly to a child under the direct supervision of a case-worker or other responsible adult approved by the department.

~~(4) PARTICIPATION IN LIFE SKILLS ACTIVITIES.— In order to assist older children in foster care, ages 13 to 18 years of age, with the transition to independent living as adults, the program must provide them with opportunities to participate in and learn from life skills activities in their foster families and communities which are reasonable and appropriate for their age. Such activities may include, but are not limited to, managing money earned from a job, taking driver's education, and participating in after-school or extracurricular activities. To support these opportunities for participation in age-appropriate life skills activities, the department may:~~

~~(a) Develop, with children in the program and their foster parents, a list of age-appropriate activities and responsibilities to be presented to all children involved in independent living transition services and their foster parents.~~

~~(b) Provide training for staff and foster parents which addresses issues of older children in foster care and the transition to adulthood, including supporting education and employment and providing opportunities to participate in appropriate daily activities.~~

~~(c) Develop procedures to maximize the authority of foster parents to approve participation in age-appropriate activities of children in their care.~~

~~(d) Provide opportunities for older children in foster care to interact with mentors.~~

~~(e) Develop and implement procedures for older children to directly access and manage the personal allowance they receive from the department in order to learn responsibility and participate in age-appropriate life skills activities to the extent feasible.~~

~~(5) PROGRAM COMPONENT OF SERVICES FOR YOUNG ADULTS FORMERLY IN FOSTER CARE.—Based on the availability of funds, the department shall provide or arrange for the following services to young adults formerly in foster care who meet the prescribed conditions and are determined eligible by the department. The categories of services available to assist a young adult formerly in foster care to achieve independence are:~~

~~(a) Aftercare support services.—~~

~~1. Aftercare support services are available to assist young adults who were formerly in foster care in their efforts to continue to develop the skills and abilities necessary for independent living. The aftercare support services available include, but are not limited to, the following referrals to resources in the community for:~~

- ~~a. Mentoring and tutoring.~~
- ~~b. Mental health services and substance abuse counseling.~~
- ~~c. Life skills classes, including credit management and preventive health activities.~~
- ~~d. Parenting classes.~~
- ~~e. Job skills training.~~
- ~~f. Counselor consultations.~~
- ~~g. Temporary financial assistance.~~

~~The specific services to be provided under this subparagraph shall be determined by an aftercare services assessment and may be provided by the department or through referrals in the community. Temporary assistance may be provided to prevent homelessness shall be provided as expeditiously as possible and within the limitations defined by the department.~~

~~2. A young adult who has reached 18 years of age but is not yet 23 years of age who leaves foster care at 18 years of age but who requests services prior to reaching 23 years of age is eligible for such services.~~

~~(b) Road-to-Independence Scholarship Program.—~~

1. The Road-to-Independence Scholarship Program is intended to help eligible students who are former foster children in this state to receive the educational and vocational training needed to achieve independence. The amount of the award shall be based on the living and educational needs of the young adult and may be up to, but shall not exceed equal the amount of earnings that the student would have been eligible to earn working a 40-hour-a-week federal minimum wage job, after considering other grants and scholarships that are in excess of the educational institutions' fees and costs, and contingent upon available funds. Students eligible for the Road-to-Independence Scholarship Program may also be eligible for educational fee waivers for workforce development postsecondary programs, community colleges, and universities, pursuant to s. 1009.25(2)(e).

2. A young adult who has reached 18 years of age but is not yet to 21 years of age is eligible for the initial award, and a young adult under 23 years of age is eligible for renewal awards, if he or she:

a. Was is a dependent child, pursuant to chapter 39, and was is living in licensed foster care or in subsidized independent living at the time of his or her 18th birthday;

b. Has Spent at least 6 months living in foster care before reaching his or her 18th birthday;

c. Is a resident of this state as defined in s. 1009.40; and

d. Meets one of the following qualifications:

(I) Has earned a standard high school diploma or its equivalent as described in s. 1003.43 or s. 1003.435, or has earned a special diploma or special certificate of completion as described in s. 1003.438, and has been admitted for full-time enrollment in an eligible postsecondary education institution as defined in s. 1009.533;

(II) Is enrolled full time in an accredited high school, is within 2 years of graduation, and has maintained a grade point average of at least 2.0 on a scale of 4.0 for the two semesters preceding the date of his or her 18th birthday; or

(III) Is enrolled full time in an accredited adult education program designed to provide the student with a high school diploma or its equivalent, is making satisfactory progress in that program as certified by the program, and is within 2 years of graduation.

3. A young adult applying for a Road-to-Independence Scholarship must apply for any other grants and scholarships for which he or she may qualify. The department shall assist the young adult in the application process and may use the federal financial aid grant process to determine the funding needs of the young adult.

4. The amount of the award, whether it is being used by a young adult working towards completion of a high school diploma or its equivalent or working towards completion of a postsecondary education program, shall be determined based on an assessment of the funding needs of the young adult. This assessment shall consider the young adult's living and educational costs and other grants, scholarships, waivers, earnings, and other income to be received by the young adult. An award shall be available only to the extent that other grants and scholarships are not sufficient to meet the living and educational needs of the young adult, but an award shall not be less than \$25 in order to maintain Medicaid eligibility for the young adult as provided in s. 409.903. For those young adults who are attending high school or another education program for which the financial aid grant process could not be applied for the purpose of determining funding needs of the young adult, the department may issue a base award of \$654 and consider the young adult's living and educational needs in issuing a higher award amount.

5.3-a. The department must advertise the availability of the program and must ensure that the children and young adults leaving foster care, foster parents, or family services counselors are informed of the availability of the program and the application procedures.

b. A young adult must apply for the initial award during the 6 months immediately preceding his or her 18th birthday and the department shall provide assistance with the application process. A young adult who fails to make an initial application, but who otherwise meets the criteria for an initial award, may make one application for the initial award if such application is made before the young adult's 21st birthday.

If the young adult does not apply for an initial award before his or her 18th birthday, the department shall inform that young adult of the opportunity to apply before turning 21 years of age.

c. If funding for the program is available, the department shall issue awards from the scholarship program for each young adult who meets all the requirements of the program.

d. If funding for the program is not available, the department may temporarily cease issuing new awards until funds are available.

e.d. An award shall be issued at the time the eligible student reaches 18 years of age.

f. A young adult who is eligible for the Road-to-Independence Program and who so desires shall be allowed to remain in the licensed foster family or group care provider with whom he or she was residing at the time of attaining his or her 18th birthday.

g.e. If the award recipient transfers from one eligible institution to another and continues to meet eligibility requirements, the award must be transferred with the recipient.

h.f. Scholarship funds awarded to any eligible young adult under this program are in addition to any other services provided to the young adult by the department through its independent living transition services.

i.g. The department shall provide information concerning young adults receiving the Road-to-Independence Scholarship to the Department of Education for inclusion in the student financial assistance database, as provided in s. 1009.94.

j.h. Scholarship funds are intended to help eligible students who are former foster children in this state to receive the educational and vocational training needed to become independent and self-supporting. Such funds shall be terminated when the young adult has attained one of four postsecondary goals pursuant to subsection (3) a bachelor of arts or bachelor of science degree, or equivalent undergraduate degree, or reaches 23 years of age, whichever occurs earlier. In order to initiate postsecondary education, to allow for a change in career goal, or to obtain additional skills in the same educational or vocational area, a young adult may earn no more than two diplomas, certificates, or credentials. A young adult attaining an associate of arts or associate of science degree shall be permitted to work towards completion of a bachelor of arts or a bachelor of science degree or an equivalent undergraduate degree. Road-to-Independence Scholarship funds shall not be used for education or training after a young adult has attained a bachelor of arts or a bachelor of science degree or an equivalent undergraduate degree.

k.i. The department shall evaluate and renew each award annually during the 90-day period before the young adult's birthday. In order to be eligible for a renewal award for the subsequent year, the young adult must:

(I) Complete the number of at least 12 semester hours, or the equivalent considered full time by the educational institution, in the last academic year in which the young adult earned a scholarship, except for a young adult who meets the requirements of s. 1009.41.

(II) Maintain appropriate progress as required by the educational institution the cumulative grade point average required by the scholarship program, except that, if the young adult's progress is grades are insufficient to renew the scholarship at any time during the eligibility period, the young adult may restore eligibility by improving his or her progress the grade point average to the required level.

l.j. Scholarship funds may be terminated during the interim between an award and the evaluation for a renewal award if the department determines that the award recipient is no longer enrolled in an educational institution as defined in sub-subparagraph 2.d., or is no longer a state resident. The department shall notify a student who is terminated and inform the student of his or her right to appeal.

m.k. An award recipient who does not qualify for a renewal award or who chooses not to renew the award may subsequently apply for reinstatement. An application for reinstatement must be made before the young adult reaches 23 years of age, and a student may not apply for reinstatement more than once. In order to be eligible for reinstatement

ment, the young adult must meet the eligibility criteria and the criteria for award renewal for the scholarship program.

~~1.—A young adult receiving continued services of the foster care program under former s. 409.145(3) must transfer to the scholarship program by July 1, 2003.~~

(c) Transitional support services.—

1. In addition to any services provided through after care support or the Road-to-Independence Scholarship, a young adult formerly in foster care, may receive other appropriate short-term services, which may include financial, housing, counseling, employment, education, *mental health, disability*, and other services, if the young adult demonstrates that the services are critical to the young adult's own efforts to achieve self-sufficiency and to develop a personal support system.

2. A young adult formerly in foster care is eligible to apply for transitional support services if he or she ~~has reached is~~ 18 years of age but is ~~not yet to~~ 23 years of age, was a dependent child pursuant to chapter 39, was living in licensed foster care or in subsidized independent living at the time of his or her 18th birthday, and had spent at least 6 months living in foster care before that date. *Young adults receiving an award from the Road-to-Independence Scholarship Programs are not eligible for any financial assistance provided through the transitional support services.*

3. If at any time the services are no longer critical to the young adult's own efforts to achieve self-sufficiency and to develop a personal support system, they shall be terminated.

(d) Payment of aftercare, scholarship, or transitional support funds.—Payment of aftercare, scholarship, or transitional support funds shall be made directly to the recipient unless the recipient requests that the payments or a portion of the payments be made directly to a licensed foster family or group care provider with whom the recipient was residing at the time of attaining the 18th birthday and with whom the recipient desires to continue to reside. ~~If a young adult and the former foster parent agree that the young adult shall continue to live in the foster home while receiving aftercare, scholarship, or transitional support funds, the caregiver shall establish written expectations for the young adult's behavior and responsibilities.~~ The young adult who continues with a foster family shall not be included as a child in calculating any licensing restriction on the number of children in the foster home.

(e) Appeals process.—

1. The Department of Children and Family Services shall adopt by rule a procedure by which a young adult may appeal an eligibility determination or the department's failure to provide aftercare, scholarship, or transitional support services, or the termination of such services, if such funds are available.

2. The procedure developed by the department must be readily available to young adults, *must provide timely decisions*, and must provide for an appeal to the Secretary of Children and Family Services. The decision of the secretary constitutes final agency action and is reviewable by the court as provided in s. 120.68.

(6) ACCOUNTABILITY.—

(a) The department shall develop outcome measures for the program and other performance measures.

(b) *By January 31, 2005, the department shall establish minimum system standards for the independent living transition services system which must be met by each district and community-based care lead agency. The minimum system standards must be appropriate for specific age groups within the independent living transition services program and, at a minimum, must address the following aspects of the independent living transition services system: allocation of resources between youth under 18 years of age and young adults 18 years of age and older; an approach to ensure life skills development for youth under 18 years of age; an approach to ensure continued life skills development for young adults 18 to 23 years of age when needed; linkages with other service systems such as education, mental health, and developmental disabilities, particularly for those youth approaching their 18th birthday; fiscal systems that ensure the timely issuance of financial assistance from aftercare support services and transitional support services and of scholarship awards; and community partnerships.*

(c1) *Each district and community-based care lead agency shall annually prepare a written:*

a. *Plan for meeting the minimum system standards established by the department pursuant to paragraph (b), which shall be submitted to the department by April 30, 2005, and annually thereafter; and*

b. *Report for the previous fiscal year which contains a description of the outcomes of the district's or agency's plan for meeting the minimum system standards and an accounting of expenditures for independent living transition services. The report shall be submitted to the department by August 31, 2006, and annually thereafter.*

2. *For the fiscal year beginning July 1, 2005, and for each fiscal year thereafter, a district or community-based care lead agency may not expend funds for independent living transition services until the plan required by subparagraph 1.a. is approved by the department.*

(7) INDEPENDENT LIVING SERVICES ADVISORY COUNCIL WORKGROUP.—The Secretary of Children and Family Services shall establish the Independent Living Services Advisory Council for the purpose of reviewing and making recommendations concerning the implementation and operation of the independent living transition services. *This advisory council shall continue to function as specified in this subsection until the Legislature determines that the advisory council can no longer provide a valuable contribution to the department's efforts to achieve the goals of the independent living transition services.*

(a) ~~Specifically, the advisory council workgroup, which, at a minimum, shall include representatives from the Department of Children and Family Services, the Agency for Workforce Innovation, the Department of Education, the Agency for Health Care Administration, the State Youth Advisory Board, Workforce Florida, Inc., and foster parents. The workgroup shall assess the implementation and operation of the system of independent living transition services and advise the department on actions that would improve the ability of the independent living transition services to meet the established goals. The advisory council workgroup shall keep the department informed of problems being experienced with the services, barriers to the effective and efficient integration of services and support across systems, and successes that the system of independent living transition services has achieved. The department shall consider, but is not required to implement, the recommendations of the advisory council workgroup.~~

(b) ~~For the 2002-2003 and 2003-2004 fiscal years, The advisory council workgroup shall report to the appropriate substantive committees of the Senate and the House of Representatives on the status of the implementation of the system of independent living transition services; efforts to publicize the availability of aftercare support services, the Road-to-Independence Scholarship Program, and transitional support services; specific barriers to financial aid created by the scholarship and possible solutions; the success of the services; problems identified; recommendations for department or legislative action; and the department's implementation of the recommendations contained in the Independent Living Services Integration Workgroup Report submitted to the Senate and the House substantive committees December 31, 2002. This advisory council workgroup report shall is to be submitted by December 31 of each year that the council is in existence December 31, 2003, and December 31, 2004, and shall be accompanied by a report from the department which identifies the recommendations of the advisory council workgroup and either describes the department's actions to implement these recommendations or provides the department's rationale for not implementing the recommendations.~~

(c) *Members of the advisory council shall be appointed by the secretary of the department. The membership of the advisory council must include, at a minimum, representatives from the headquarters and district offices of the Department of Children and Family Services, community-based care lead agencies, the Agency for Workforce Innovation, the Department of Education, the Agency for Health Care Administration, the State Youth Advisory Board, Workforce Florida, Inc., the Statewide Guardian Ad Litem Office, foster parents, and advocates for foster children. The secretary shall determine the length of the term to be served by each member appointed to the advisory council, which may not exceed 4 years.*

(8) PERSONAL PROPERTY.—Property acquired on behalf of clients of this program shall become the personal property of the clients and is not subject to the requirements of chapter 273 relating to state-owned

tangible personal property. Such property continues to be subject to applicable federal laws.

(9) RULEMAKING.—The department shall adopt by rule procedures to administer this section, including ~~balancing provision for the proportional reduction of scholarship awards when adequate funds are not available for all applicants. These rules shall balance the goals of normalcy and safety for the youth and providing provide the caregivers with as much flexibility as possible to enable the youth to participate in normal life experiences. The department shall engage in appropriate planning to prevent, to the extent possible, a reduction in scholarship awards after issuance.~~

Section 2. Subsections (6) through (8) of section 39.701, Florida Statutes, are renumbered as subsections (7) through (9), respectively, present subsections (6) and (7) are amended, and a new subsection (6) is added to that section, to read:

39.701 Judicial review.—

(6)(a) *In addition to the provisions of s. 39.701(1)(a) and (2)(a), the court shall hold a judicial review hearing within 90 days after a child's 17th birthday and shall continue to hold timely judicial review hearings. In addition, the court may review the status of the child more frequently during the year prior to the child's 18th birthday if necessary. At each review held pursuant to this subsection, in addition to any information or report provided to the court, the foster parent, legal custodian, guardian ad litem, and the child shall be given the opportunity to address the court with any information relevant to the child's best interests, particularly as it relates to the provision of independent living transition services. In addition to any information or report provided to the court, the department shall include in its judicial review social study report written verification that the child:*

1. *Has been provided with a current Medicaid card.*
 2. *Has been provided with a certified copy of his or her birth certificate and, if the child does not have a valid driver's license, a Florida identification card issued pursuant to s. 322.051.*
 3. *Has been provided information relating to Social Security Insurance benefits if the child is eligible for such benefits. If the child has received these benefits and they are being held in trust for the child, a full accounting of those funds shall be provided and the child must be informed about how to access those funds.*
 4. *Has been provided with information and training related to budgeting skills, interviewing skills, and parenting skills.*
 5. *Has been provided with all relevant information related to the Road-to-Independence Scholarship, including, but not limited to, eligibility requirements, forms necessary to apply, and assistance in completing the forms.*
 6. *Has an open bank account, or has identification necessary to open such an account, and has been provided with essential banking skills.*
 7. *Has been provided with information on public assistance and how to apply.*
 8. *Has been provided a clear understanding of where he or she will be living on his or her 18th birthday, how living expenses will be paid, and what educational program or school he or she will be enrolled in.*
- (b) *At the first judicial review hearing held subsequent to the child's 17th birthday, in addition to the requirements of subsection (7), the department shall provide the court with an updated case plan that includes specific information related to independent living services that have been provided since the child's 13th birthday, or since the date the child came into foster care, whichever came later.*

(c) *At the time of a judicial review hearing held pursuant to this subsection, if, in the opinion of the court, the department has not complied with its obligations as specified in the written case plan or in the provision of independent living services as required by s. 409.1451 and this subsection, the court shall issue a show cause order. If cause is shown for failure to comply, the court shall give the department 30 days within which to comply and, on failure to comply with this or any subsequent order, the department may be held in contempt.*

(7)(6)(a) Prior to every judicial review hearing or citizen review panel hearing, the social service agency shall make an investigation and social study concerning all pertinent details relating to the child and shall furnish to the court or citizen review panel a written report that includes, but is not limited to:

1. A description of the type of placement the child is in at the time of the hearing, including the safety of the child and the continuing necessity for and appropriateness of the placement.
2. Documentation of the diligent efforts made by all parties to the case plan to comply with each applicable provision of the plan.
3. The amount of fees assessed and collected during the period of time being reported.
4. The services provided to the foster family or legal custodian in an effort to address the needs of the child as indicated in the case plan.
5. A statement that either:
 - a. The parent, though able to do so, did not comply substantially with the provisions of the case plan, and the agency recommendations;
 - b. The parent did substantially comply with the provisions of the case plan; or
 - c. The parent has partially complied with the provisions of the case plan, with a summary of additional progress needed and the agency recommendations.
6. A statement from the foster parent or legal custodian providing any material evidence concerning the return of the child to the parent or parents.
7. A statement concerning the frequency, duration, and results of the parent-child visitation, if any, and the agency recommendations for an expansion or restriction of future visitation.
8. The number of times a child has been removed from his or her home and placed elsewhere, the number and types of placements that have occurred, and the reason for the changes in placement.
9. The number of times a child's educational placement has been changed, the number and types of educational placements which have occurred, and the reason for any change in placement.
10. *If the child has reached 13 years of age but is not yet 18 years of age, the results of the preindependent-living, life-skills, or independent-living assessment, the specific services needed, and the status of the delivery of the identified services.*
11. ~~10.~~ Copies of all medical, psychological, and educational records that support the terms of the case plan and that have been produced concerning the child, parents, or any caregiver since the last judicial review hearing.
 - (b) A copy of the social service agency's written report and the written report of the guardian ad litem must be served on all parties whose whereabouts are known; to the foster parents or legal custodians; and to the citizen review panel, at least 72 hours before the judicial review hearing or citizen review panel hearing. The requirement for providing parents with a copy of the written report does not apply to those parents who have voluntarily surrendered their child for adoption or who have had their parental rights to the child terminated.
 - (c) In a case in which the child has been permanently placed with the social service agency, the agency shall furnish to the court a written report concerning the progress being made to place the child for adoption. If the child cannot be placed for adoption, a report on the progress made by the child towards alternative permanency goals or placements, including, but not limited to, guardianship, long-term custody, long-term licensed custody, or independent living, must be submitted to the court. The report must be submitted to the court at least 72 hours before each scheduled judicial review.
 - (d) In addition to or in lieu of any written statement provided to the court, the foster parent or legal custodian, or any preadoptive parent, shall be given the opportunity to address the court with any information relevant to the best interests of the child at any judicial review hearing.

(8)(7) The court and any citizen review panel shall take into consideration the information contained in the social services study and investigation and all medical, psychological, and educational records that support the terms of the case plan; testimony by the social services agency, the parent, the foster parent or legal custodian, the guardian ad litem if one has been appointed for the child, and any other person deemed appropriate; and any relevant and material evidence submitted to the court, including written and oral reports to the extent of their probative value. These reports and evidence may be received by the court in its effort to determine the action to be taken with regard to the child and may be relied upon to the extent of their probative value, even though not competent in an adjudicatory hearing. In its deliberations, the court and any citizen review panel shall seek to determine:

(j) *For a child who has reached 13 years of age but is not yet 18 years of age, the adequacy of the child's preparation for adulthood and independent living.*

Section 3. Paragraph (c) of subsection (2) of section 1009.25, Florida Statutes, is amended to read:

1009.25 Fee exemptions.—

(2) The following students are exempt from the payment of tuition and fees, including lab fees, at a school district that provides postsecondary career and technical programs, community college, or state university:

(c) A student ~~who to whom~~ the state has determined is eligible for the ~~awarded~~ a Road-to-Independence Scholarship, regardless of whether an award is issued or not, or a student who is or was at the time he or she reached 18 years of age in the custody of a relative under s. 39.5085, or who is adopted from the Department of Children and Family Services after May 5, 1997. Such exemption includes fees associated with enrollment in vocational-preparatory instruction and completion of the college-level communication and computation skills testing program. Such an exemption is available to any student who was in the custody of a relative under s. 39.5085 at the time he or she reached 18 years of age or was adopted from the Department of Children and Family Services after May 5, 1997; however, the exemption remains valid for no more than 4 years after the date of graduation from high school.

Section 4. Pursuant to section 11.45(2), Florida Statutes, the Auditor General shall perform both an operational audit and a performance audit, as defined in section 11.45(1), Florida Statutes, of the independent living transition services program within the Department of Children and Family Services and shall submit a report to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Secretary of Children and Family Services, and the appropriate substantive committees of the Senate and the House of Representatives no later than February 28, 2005.

Section 5. The Office of Program Policy and Government Accountability shall develop recommendations for the minimum system standards for the independent living transition services system required in section 409.1451(6), Florida Statutes. These recommendations shall be developed with advice from the key stakeholders in the independent living transition service system, including, but not limited to, independent living services staff of the Department of Children and Family Services and community-based care lead agencies, representatives of the State Youth Advisory Board, other youth and young adults who are or have been in the foster care system, foster parents, and representatives from other state agencies, and community service providers who are involved in serving this population. These recommendations shall be provided to the Department of Children and Family Services on or before November 30, 2004.

Section 6. This act shall take effect upon becoming a law.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to independent living transition services; amending s. 409.1451, F.S.; authorizing community-based providers to administer an independent living transition services system; providing legislative intent regarding assistance to older children in foster care; requiring the Department of Children and Family Services to provide certain skills assessment and training to such children; providing guidelines to develop such training; providing certain educational goals; revising provisions governing a young adult's preparation for independent

living; requiring the department to conduct an assessment and inform the child of certain scholarships, grants, and awards; providing for the identification of and assistance to children with developmental disabilities and special mental health needs; providing that such assessment be included in a certain report during judicial review; removing life skills activities guidelines for young adults who were formerly in foster care; revising aftercare services; providing a limitation on the amount of an award; providing additional qualifications to receive the award; providing requirements and options for determining the amount of the award; providing that a young adult who is eligible to receive such award may remain with the foster family or group care provider beyond his or her age of majority; providing a limitation on the number of diplomas, certificates, or the equivalent an award recipient may receive; expanding the services available through the transitional support service to include mental health and disability services; prohibiting the provision of financial assistance from transitional support services to young adults receiving a scholarship; requiring the department to establish minimum system standards for independent living transition service providers; requiring a district or community-based care lead agency to annually submit a plan for meeting the minimum system standards, a report containing outcomes, and an accounting for the previous fiscal year; requiring department authorization of plans for expenditure of specified funds; abolishing the independent living services workgroup; creating the Independent Living Services Advisory Council; providing duties and responsibilities; requiring an annual report; providing membership criteria; limiting the department's rulemaking authority; amending s. 39.701, F.S.; requiring a judicial review hearing within a certain time-frame for each child in foster care; requiring that the court certify that such child has received certain information; providing that the department may be held in contempt; requiring that information from the preindependent living assessment be provided to the courts; requiring the court to determine the child's preparation for independence; amending s. 1009.25, F.S.; revising requirements specifying the students who are exempt from paying tuition and fees; requiring the Auditor General to perform an audit of the program and submit a report; directing the Office of Program Policy and Government Accountability to develop recommendations for minimum system standards; requiring that the recommendations be provided to the department by November 30, 2004; providing an effective date.

Senator Wilson moved the following amendment to **Amendment 1** which was adopted:

Amendment 1A (221490)(with title amendment)—On page 1, line 26, after the period (.) insert: *For the purposes of this section, foster care includes temporary placement through the Department of Juvenile Justice or Department of Corrections, if the child is adjudicated dependent and placed by the court with the department.*

And the title is amended as follows:

On page 30, line 20, after the semicolon (;) insert: providing that foster care includes the temporary placement through the Department of Juvenile Justice or Department of Corrections;

Senator Lynn moved the following amendment to **Amendment 1** which was adopted:

Amendment 1B (751764)(with title amendment)—On page 7, line 9 through page 8, line 20, delete those lines and insert:

5. *Information related to both the preindependent-living assessment and all staffings, which shall be reduced to writing and signed by the child participant, shall be included as a part of the written report required to be provided to the court at each judicial review held pursuant to s. 39.701.*

(b) Life skills services.—

1. Life skills services may include, but are not limited to, independent living skills training, including training to develop banking and budgeting skills, interviewing skills, parenting skills, educational support, employment training, and counseling. *Children receiving these services should also be provided with information related to social security insurance benefits and public assistance.* The specific services to be provided to a child shall be determined using an independent life skills assessment.

2. A child who has reached 15 years of age but is not yet to 18 years of age who is in foster care is eligible for such services.

3. *The department shall conduct a staffing at least once every 6 months for each child who has reached 15 years of age but is not yet 18 years of age to ensure that the appropriate independent living training and services as determined by the independent life skills assessment are being received and to evaluate the progress of the child in developing the needed independent living skills. At these staffings, the department shall identify children with developmental disabilities and special mental health needs and coordinate with the appropriate agencies to assist these children with their special needs, particularly the Developmental Disabilities Program Office and Mental Health Program Office. The department shall coordinate the child's independent living plan with the school's individual education plan if the child is in a special education program.*

And the title is amended as follows:

On page 31, delete line 1 and insert: identification of and coordination of assistance to children;

Senator Wasserman Schultz moved the following amendments to **Amendment 1** which were adopted:

Amendment 1C (214072)(with title amendment)—On page 15, line 20-22, delete those lines and insert: *allowed to reside in the licensed foster family or group care provider with whom he or she was residing at the time of attaining his or her 18th birthday or in another foster home placement that is arranged by the department.*

And the title is amended as follows:

On page 31, line 14, delete “remain with the” and insert: reside with a

Amendment 1D (972790)(with title amendment)—On page 18, lines 13-16, delete those lines and insert: months living in foster care before that date. *Young adults not receiving a Road-to-Independence Scholarship shall have priority for financial assistance provided through transitional support services.*

And the title is amended as follows:

On page 31, lines 21-24, delete those lines and insert: disability services; providing a priority for transitional support services for young adults who do not receive a scholarship award; requiring the department to

Amendment 1E (565092)—On page 19, line 3, delete “continues” and insert: *resides continues*

Senator Lynn moved the following amendment to **Amendment 1** which was adopted:

Amendment 1F (920322)(with title amendment)—On page 19, line 19 through page 23, line 9, delete those lines and insert:

(6) **ACCOUNTABILITY.**—The department shall develop outcome measures for the program and other performance measures.

(7) **INDEPENDENT LIVING SERVICES ADVISORY COUNCIL WORKGROUP.**—The Secretary of Children and Family Services shall establish the Independent Living Services Advisory Council for the purpose of reviewing and making recommendations concerning the implementation and operation of the independent living transition services. *This advisory council shall continue to function as specified in this subsection until the Legislature determines that the advisory council can no longer provide a valuable contribution to the department's efforts to achieve the goals of the independent living transition services.*

(a) *Specifically, the advisory council workgroup, which, at a minimum, shall include representatives from the Department of Children and Family Services, the Agency for Workforce Innovation, the Department of Education, the Agency for Health Care Administration, the State Youth Advisory Board, Workforce Florida, Inc., and foster parents. The workgroup shall assess the implementation and operation of the system of independent living transition services and advise the department on actions that would improve the ability of the independent living transition services to meet the established goals. The advisory council workgroup shall keep the department informed of problems being experienced with the services, barriers to the effective and efficient integration of services and support across systems, and successes that the*

system of independent living transition services has achieved. The department shall consider, but is not required to implement, the recommendations of the advisory council workgroup.

(b) ~~For the 2002-2003 and 2003-2004 fiscal years, The advisory council workgroup shall report to the appropriate substantive committees of the Senate and the House of Representatives on the status of the implementation of the system of independent living transition services; efforts to publicize the availability of aftercare support services, the Road-to-Independence Scholarship Program, and transitional support services; specific barriers to financial aid created by the scholarship and possible solutions; the success of the services; problems identified; recommendations for department or legislative action; and the department's implementation of the recommendations contained in the Independent Living Services Integration Workgroup Report submitted to the Senate and the House substantive committees December 31, 2002. This advisory council workgroup report shall is to be submitted by December 31 of each year that the council is in existence December 31, 2003, and December 31, 2004, and shall be accompanied by a report from the department which identifies the recommendations of the advisory council workgroup and either describes the department's actions to implement these recommendations or provides the department's rationale for not implementing the recommendations.~~

(c) *Members of the advisory council shall be appointed by the secretary of the department. The membership of the advisory council must include, at a minimum, representatives from the headquarters and district offices of the Department of Children and Family Services, community-based care lead agencies, the Agency for Workforce Innovation, the Department of Education, the Agency for Health Care Administration, the State Youth Advisory Board, Workforce Florida, Inc., the Statewide Guardian Ad Litem Office, foster parents, and advocates for foster children. The secretary shall determine the length of the term to be served by each member appointed to the advisory council, which may not exceed 4 years.*

(8) **PERSONAL PROPERTY.**—Property acquired on behalf of clients of this program shall become the personal property of the clients and is not subject to the requirements of chapter 273 relating to state-owned tangible personal property. Such property continues to be subject to applicable federal laws.

(9) **RULEMAKING.**—The department shall adopt by rule procedures to administer this section, including ~~balancing provision for the proportional reduction of scholarship awards when adequate funds are not available for all applicants. These rules shall balance the goals of normalcy and safety for the youth and providing provide the caregivers with as much flexibility as possible to enable the youth to participate in normal life experiences. The department shall not adopt rules relating to reductions in scholarships awards. The department shall engage in~~

And the title is amended as follows:

On page 31, line 24 through page 32, line 2, delete those lines and insert: scholarship; abolishing the

MOTION

On motion by Senator Wilson, the rules were waived to allow the following amendment to be considered:

Senator Wilson moved the following amendment to **Amendment 1** which was adopted:

Amendment 1G (182662)—On page 13, line 5, after “awards,” insert: *except that a young adult with a developmental disability as defined in s. 393.063, who is under the age of 23 years of age is eligible for the initial award or renewal awards,*

MOTION

On motion by Senator Wasserman Schultz, the rules were waived to allow the following amendment to be considered:

Senator Wasserman Schultz moved the following amendment to **Amendment 1** which was adopted:

Amendment 1H (964676)—On page 18, lines 26-28, delete those lines and insert: family or group care provider with whom the recipient

was residing at the time of attaining the 18th birthday and with whom the recipient desires to continue to reside. If a young

Amendment 1 as amended was adopted.

Pursuant to Rule 4.19, **CS for CS for CS for SB 512** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Atwater—

CS for CS for SB 2984—A bill to be entitled An act relating to homeowners' associations; amending s. 720.301, F.S.; defining the terms "department," "division," and "member"; amending s. 720.302, F.S.; prescribing a legislative purpose of providing alternative dispute resolution procedures for disputes involving elections and recalls; providing acts that constitute crimes; providing penalties; amending s. 720.303, F.S.; prescribing the right of an association to enforce deed restrictions; prescribing rights of members and parcel owners to attend and address association board meetings and to have items placed on an agenda; prescribing additional requirements for notice of meetings; providing for additional materials to be maintained as records; providing additional requirements and limitations with respect to inspecting and copying records; providing requirements with respect to financial statements; providing procedures for recall of directors; amending s. 720.304, F.S.; prescribing owners' rights with respect to flag display; prohibiting certain lawsuits against parcel owners; providing penalties; allowing a parcel owner to construct a ramp for a parcel resident who has a medical need for a ramp; providing conditions; allowing the display of a security-services sign; amending s. 720.305, F.S.; providing that a fine by an association cannot become a lien against a parcel; providing for attorney's fees in actions to recover fines; creating s. 720.3055, F.S.; prescribing requirements for contracts for products and services; amending s. 720.306, F.S.; providing for notice of and right to speak at member meetings; requiring election disputes between a member and an association to be submitted to mandatory binding arbitration; amending s. 720.311, F.S.; expanding requirements and guidelines with respect to alternative dispute resolution; providing requirements for mediation and arbitration; providing for training and education programs; transferring, renumbering, and amending s. 689.26, F.S.; modifying the disclosure form that a prospective purchaser must receive before a contract for sale; providing that certain contracts are voidable for a specified period; requiring that a purchaser provide written notice of cancellation; transferring and renumbering s. 689.265, F.S., relating to required financial reports of certain residential subdivision developers; amending s. 498.025, F.S., relating to the disposition of subdivided lands; conforming cross-references; creating s. 720.402, F.S.; providing remedies for publication of false and misleading information; amending s. 34.01, F.S.; providing jurisdiction of disputes involving homeowners' associations; amending ss. 316.00825, 558.002, F.S.; conforming cross-references; providing for internal organization of ch. 720, F.S.; providing an effective date.

—was read the second time by title.

Senator Atwater moved the following amendment which was adopted:

Amendment 1 (492818)—On page 25, delete line 10 and insert: *5, Art. I of the State Constitution, on matters related to the homeowners' association.*

Senator Posey moved the following amendment which failed:

Amendment 2 (382418)(with title amendment)—On page 27, line 16, delete "not"

And the title is amended as follows:

On page 1, line 31, delete "cannot" and insert: shall

MOTION

On motion by Senator Atwater, the rules were waived to allow the following amendment to be considered:

Senator Atwater moved the following amendment which was adopted:

Amendment 3 (675210)—On page 12, delete line 29 and insert: *720.401(1).*

MOTION

On motion by Senator Campbell, the rules were waived to allow the following amendment to be considered:

Senators Campbell and Atwater offered the following amendment which was moved by Senator Campbell:

Amendment 4 (313072)(with title amendment)—On page 3, line 6, insert:

Section 1. Paragraph (e) of subsection (12) of section 718.111, Florida Statutes, is amended to read:

718.111 The association.—

(12) OFFICIAL RECORDS.—

(e)1. The association or its authorized agent ~~is shall~~ not be required to provide a prospective purchaser or lienholder with information about the condominium or the association other than information or documents required by this chapter to be made available or disclosed. The association or its authorized agent ~~may shall be entitled to~~ charge a reasonable fee to the prospective purchaser, lienholder, or the current unit owner for ~~its time in~~ providing good faith responses to requests for information by or on behalf of a prospective purchaser or lienholder, other than that required by law, ~~if the provided that such fee does shall~~ not exceed \$150 plus the reasonable cost of photocopying and any attorney's fees incurred by the association in connection with the ~~associa-~~ ~~tion's~~ response.

2. *An association and its authorized agent are not liable for providing such information in good faith pursuant to a written request if the person providing the information includes a written statement in substantially the following form: "The responses herein are made in good faith and to the best of my ability as to their accuracy."*

Section 2. Subsection (2) of section 720.303, Florida Statutes, is amended to read:

720.303 Association powers and duties; meetings of board; official records; budgets; financial reporting.—

(2) BOARD MEETINGS.—A meeting of the board of directors of an association occurs whenever a quorum of the board gathers to conduct association business. All meetings of the board must be open to all members except for meetings between the board and its attorney with respect to proposed or pending litigation where the contents of the discussion would otherwise be governed by the attorney-client privilege. Notices of all board meetings must be posted in a conspicuous place in the community at least 48 hours in advance of a meeting, except in an emergency. In the alternative, if notice is not posted in a conspicuous place in the community, notice of each board meeting must be mailed or delivered to each member at least 7 days before the meeting, except in an emergency. Notwithstanding this general notice requirement, for communities with more than 100 members, the bylaws may provide for a reasonable alternative to posting or mailing of notice for each board meeting, including publication of notice, provision of a schedule of board meetings, or the conspicuous posting and repeated broadcasting of the notice on a closed-circuit cable television system serving the homeowners' association. However, if broadcast notice is used in lieu of a notice posted physically in the community, the notice must be broadcast at least four times every broadcast hour of each day that a posted notice is otherwise required. When broadcast notice is provided, the notice and agenda must be broadcast in a manner and for a sufficient continuous length of time so as to allow an average reader to observe the notice and read and comprehend the entire content of the notice and the agenda. The bylaws or amended bylaws may provide for giving notice by electronic transmission in a manner authorized by law for meetings of the board of directors, committee meetings requiring notice under this section, and annual and special meetings of the members; however, a member must consent in writing to receiving notice by electronic transmission. An assessment may not be levied at a board meeting unless *a written notice of the meeting is provided to all members at least 14 days before the meeting, which notice includes a statement that assessments will be considered at the meeting and the nature of the assessments. Rules that regulate the use of parcels in the community may not be adopted, amended, or revoked at a board meeting unless a written meeting notice is provided to all members at least 14 days before the*

meeting, which notice includes a statement that changes to the rules regarding the use of parcels will be considered at the meeting. Directors may not vote by proxy or by secret ballot at board meetings, except that secret ballots may be used in the election of officers. This subsection also applies to the meetings of any committee or other similar body, when a final decision will be made regarding the expenditure of association funds, and to any body vested with the power to approve or disapprove architectural decisions with respect to a specific parcel of residential property owned by a member of the community.

Section 3. Subsection (3) of section 768.1325, Florida Statutes, is amended, and subsection (6) is added to that section, to read:

768.1325 Cardiac Arrest Survival Act; immunity from civil liability.—

(3) Notwithstanding any other provision of law to the contrary, and except as provided in subsection (4), any person who uses or attempts to use an automated external defibrillator device on a victim of a perceived medical emergency, without objection of the victim of the perceived medical emergency, is immune from civil liability for any harm resulting from the use or attempted use of such device. In addition, any person who acquired the device, *including, but not limited to, a community association organized under chapter 617, chapter 718, chapter 719, chapter 720, chapter 721, or chapter 723*, is immune from such liability, if the harm was not due to the failure of such acquirer of the device to:

(a) Notify the local emergency medical services medical director of the most recent placement of the device within a reasonable period of time after the device was placed;

(b) Properly maintain and test the device; or

(c) Provide appropriate training in the use of the device to an employee or agent of the acquirer when the employee or agent was the person who used the device on the victim, except that such requirement of training does not apply if:

1. The employee or agent was not an employee or agent who would have been reasonably expected to use the device; or

2. The period of time elapsing between the engagement of the person as an employee or agent and the occurrence of the harm, or between the acquisition of the device and the occurrence of the harm in any case in which the device was acquired after engagement of the employee or agent, was not a reasonably sufficient period in which to provide the training.

(6) *An insurer may not require an acquirer of an automated external defibrillator device which is a community association organized under chapter 617, chapter 718, chapter 719, chapter 720, chapter 721, or chapter 723 to purchase medical malpractice liability coverage as a condition of issuing any other coverage carried by the association, and an insurer may not exclude damages resulting from the use of an automated external defibrillator device from coverage under a general liability policy issued to an association.*

Section 4. Paragraphs (f) and (l) of subsection (2) of section 718.112, Florida Statutes, are amended to read:

718.112 Bylaws.—

(2) REQUIRED PROVISIONS.—The bylaws shall provide for the following and, if they do not do so, shall be deemed to include the following:

(f) Annual budget.—

1. The proposed annual budget of common expenses shall be detailed and shall show the amounts budgeted by accounts and expense classifications, including, if applicable, but not limited to, those expenses listed in s. 718.504(21). A condominium association shall adopt a separate budget of common expenses for each condominium the association operates and shall adopt a separate budget of common expenses for the association. In addition, if the association maintains limited common elements with the cost to be shared only by those entitled to use the limited common elements as provided for in s. 718.113(1), the budget or a schedule attached thereto shall show amounts budgeted therefor. If, after turnover of control of the association to the unit owners, any of the

expenses listed in s. 718.504(21) are not applicable, they need not be listed.

2. In addition to annual operating expenses, the budget shall include reserve accounts for capital expenditures and deferred maintenance. These accounts shall include, but are not limited to, roof replacement, building painting, and pavement resurfacing, regardless of the amount of deferred maintenance expense or replacement cost, and for any other item for which the deferred maintenance expense or replacement cost exceeds \$10,000. The amount to be reserved shall be computed by means of a formula which is based upon estimated remaining useful life and estimated replacement cost or deferred maintenance expense of each reserve item. The association may adjust replacement reserve assessments annually to take into account any changes in estimates or extension of the useful life of a reserve item caused by deferred maintenance. This subsection does not apply to an adopted budget in which the members of an association have determined, by a majority vote at a duly called meeting of the association, to provide no reserves or less reserves than required by this subsection. However, prior to turnover of control of an association by a developer to unit owners other than a developer pursuant to s. 718.301, the developer may vote to waive the reserves or reduce the funding of reserves for the first 2 fiscal years of the association's operation, beginning with the fiscal year in which the initial declaration is recorded, after which time reserves may be waived or reduced only upon the vote of a majority of all nondeveloper voting interests voting in person or by limited proxy at a duly called meeting of the association. If a meeting of the unit owners has been called to determine whether to waive or reduce the funding of reserves, and no such result is achieved or a quorum is not attained, the reserves as included in the budget shall go into effect. After the turnover, the developer may vote its voting interest to waive or reduce the funding of reserves.

3. Reserve funds and any interest accruing thereon shall remain in the reserve account or accounts, and shall be used only for authorized reserve expenditures unless their use for other purposes is approved in advance by a majority vote at a duly called meeting of the association. Prior to turnover of control of an association by a developer to unit owners other than the developer pursuant to s. 718.301, the developer-controlled association shall not vote to use reserves for purposes other than that for which they were intended without the approval of a majority of all nondeveloper voting interests, voting in person or by limited proxy at a duly called meeting of the association.

4. ~~In a condominium association,~~ The only voting interests which are eligible to vote on questions that involve waiving or reducing the funding of reserves, or using existing reserve funds for purposes other than purposes for which the reserves were intended, are the voting interests of the units subject to assessment to fund the reserves in question.

(l) Certificate of compliance.—There shall be a provision that a certificate of compliance from a licensed electrical contractor or electrician may be accepted by the association's board as evidence of compliance of the condominium units with the applicable fire and life safety code. Notwithstanding the provisions of chapter 633 or of any other code, statute, ordinance, administrative rule, or regulation, or any interpretation of the foregoing, an association, condominium, or unit owner is not obligated to retrofit the common elements or units of a residential condominium with a fire sprinkler system or other engineered lifesafety system in a building that has been certified for occupancy by the applicable governmental entity, if the unit owners have voted to forego such retrofitting and engineered lifesafety system by the affirmative vote of two-thirds of all voting interests in the affected condominium. However, a condominium association may not vote to forego the retrofitting with a fire sprinkler system of common areas in a high-rise building. For purposes of this subsection, the term "high-rise building" means a building that is greater than 75 feet in height where the building height is measured from the lowest level of fire department access to the floor of the highest occupiable story. For purposes of this subsection, the term "common areas" means any enclosed hallway, corridor, lobby, stairwell, or entryway. In no event shall the local authority having jurisdiction require completion of retrofitting of common areas with a sprinkler system before the end of 2014.

1. A vote to forego retrofitting may not be obtained by general proxy or limited proxy or by a ballot, but shall be obtained by a vote personally cast at a duly called membership meeting, or by execution of a written consent by the member, and shall be effective upon the recording of a

certificate attesting to such vote in the public records of the county where the condominium is located. The association shall *mail, hand deliver, or electronically transmit to provide* each unit owner written notice *at least 14 days prior to such membership meeting in which of* the vote to forego retrofitting of the required fire sprinkler system *is to take place, in at least 16-point bold type, by certified mail, within 20 days after the association's vote. Within 30 days after the association's opt-out vote, notice of the results of the opt-out vote shall be mailed, hand delivered, or electronically transmitted to all unit owners. Evidence of compliance with this 30-day notice shall be made by an affidavit executed by the person providing the notice and filed among the official records of the association.* After such notice is provided to each owner, a copy of such notice shall be provided by the current owner to a new owner prior to closing and shall be provided by a unit owner to a renter prior to signing a lease.

2. As part of the information collected annually from condominiums, the division shall require condominium associations to report the membership vote and recording of a certificate under this subsection and, if retrofitting has been undertaken, the per-unit cost of such work. The division shall annually report to the Division of State Fire Marshal of the Department of Financial Services the number of condominiums that have elected to forego retrofitting.

Section 5. Paragraph (a) of subsection (5) of section 719.1055, Florida Statutes, is amended to read:

719.1055 Amendment of cooperative documents; alteration and acquisition of property.—

(5) Notwithstanding the provisions of chapter 633 or of any other code, statute, ordinance, administrative rule, or regulation, or any interpretation of the foregoing, a cooperative or unit owner is not obligated to retrofit the common elements or units of a residential cooperative with a fire sprinkler system or other engineered life safety system in a building that has been certified for occupancy by the applicable governmental entity, if the unit owners have voted to forego such retrofitting and engineered life safety system by the affirmative vote of two-thirds of all voting interests in the affected cooperative. However, a cooperative may not forego the retrofitting with a fire sprinkler system of common areas in a high-rise building. For purposes of this subsection, the term "high-rise building" means a building that is greater than 75 feet in height where the building height is measured from the lowest level of fire department access to the floor of the highest occupiable story. For purposes of this subsection, the term "common areas" means any enclosed hallway, corridor, lobby, stairwell, or entryway. In no event shall the local authority having jurisdiction require completion of retrofitting of common areas with a sprinkler system before the end of 2014.

(a) A vote to forego retrofitting may ~~not be obtained by general proxy or limited proxy or by a ballot, but shall be obtained by a vote~~ personally cast at a duly called membership meeting, or by execution of a written consent by the member, and shall be effective upon the recording of a certificate attesting to such vote in the public records of the county where the cooperative is located. The association shall *mail, hand deliver, or electronically transmit to provide* each unit owner written notice *at least 14 days prior to such membership meeting in which of* the vote to forego retrofitting of the required fire sprinkler system *is to take place, in at least 16-point bold type, by certified mail, within 20 days after the association's vote. Within 30 days after the association's opt-out vote, notice of the results of the opt-out vote shall be mailed, hand delivered, or electronically transmitted to all unit owners. Evidence of compliance with this 30-day notice shall be made by an affidavit executed by the person providing the notice and filed among the official records of the association.* After such notice is provided to each owner, a copy of such notice shall be provided by the current owner to a new owner prior to closing and shall be provided by a unit owner to a renter prior to signing a lease.

Section 6. Subsection (2) of section 718.503, Florida Statutes, is amended to read:

718.503 Developer disclosure prior to sale; nondeveloper unit owner disclosure prior to sale; voidability.—

(2) NONDEVELOPER DISCLOSURE.—

(a) Each unit owner who is not a developer as defined by this chapter shall comply with the provisions of this subsection prior to the sale of his

or her unit. Each prospective purchaser who has entered into a contract for the purchase of a condominium unit is entitled, at the seller's expense, to a current copy of the declaration of condominium, articles of incorporation of the association, bylaws, and rules of the association, ~~and a copy of the financial information required by s. 718.111, and the document entitled "Frequently Asked Questions and Answers" required by s. 718.504.~~

(b) If a person licensed under part I of chapter 475 provides to or otherwise obtains for a prospective purchaser the documents described in this subsection, the person is not liable for any error or inaccuracy contained in the documents.

(c) Each contract entered into after July 1, 1992, for the resale of a residential unit shall contain in conspicuous type either:

1. A clause which states: THE BUYER HEREBY ACKNOWLEDGES THAT BUYER HAS BEEN PROVIDED A CURRENT COPY OF THE DECLARATION OF CONDOMINIUM, ARTICLES OF INCORPORATION OF THE ASSOCIATION, BYLAWS AND, RULES OF THE ASSOCIATION, AND A COPY OF THE MOST RECENT YEAR-END FINANCIAL INFORMATION AND FREQUENTLY ASKED QUESTIONS AND ANSWERS DOCUMENT MORE THAN 3 DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, PRIOR TO EXECUTION OF THIS CONTRACT; or

2. A clause which states: THIS AGREEMENT IS VOIDABLE BY BUYER BY DELIVERING WRITTEN NOTICE OF THE BUYER'S INTENTION TO CANCEL WITHIN 3 DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, AFTER THE DATE OF EXECUTION OF THIS AGREEMENT BY THE BUYER AND RECEIPT BY BUYER OF A CURRENT COPY OF THE DECLARATION OF CONDOMINIUM, ARTICLES OF INCORPORATION, BYLAWS AND, RULES OF THE ASSOCIATION, AND A COPY OF THE MOST RECENT YEAR-END FINANCIAL INFORMATION AND FREQUENTLY ASKED QUESTIONS AND ANSWERS DOCUMENT IF SO REQUESTED IN WRITING. ANY PURPORTED WAIVER OF THESE VOIDABILITY RIGHTS SHALL BE OF NO EFFECT. BUYER MAY EXTEND THE TIME FOR CLOSING FOR A PERIOD OF NOT MORE THAN 3 DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, AFTER THE BUYER RECEIVES THE DECLARATION, ARTICLES OF INCORPORATION, BYLAWS, AND RULES OF THE ASSOCIATION, AND A COPY OF THE MOST RECENT YEAR-END FINANCIAL INFORMATION AND FREQUENTLY ASKED QUESTIONS AND ANSWERS DOCUMENT IF REQUESTED IN WRITING. BUYER'S RIGHT TO VOID THIS AGREEMENT SHALL TERMINATE AT CLOSING.

A contract that does not conform to the requirements of this paragraph is voidable at the option of the purchaser prior to closing.

Section 7. Section 720.403, Florida Statutes, is created to read:

720.403 Preservation of residential communities; revival of declaration of covenants.—

(1) Consistent with required and optional elements of local comprehensive plans and other applicable provisions of the Local Government Comprehensive Planning and Land Development Regulation Act, homeowners are encouraged to preserve existing residential communities, promote available and affordable housing, protect structural and aesthetic elements of their residential community, and, as applicable, maintain roads and streets, easements, water and sewer systems, utilities, drainage improvements, conservation and open areas, recreational amenities, and other infrastructure and common areas that serve and support the residential community by the revival of a previous declaration of covenants and other governing documents that may have ceased to govern some or all parcels in the community.

(2) In order to preserve a residential community and the associated infrastructure and common areas for the purposes described in this section, the parcel owners in a community that was previously subject to a declaration of covenants that has ceased to govern one or more parcels in the community may revive the declaration and the homeowners' association for the community upon approval by the parcel owners to be governed thereby as provided in this act, and upon approval of the declaration and the other governing documents for the association by the Department of Community Affairs in a manner consistent with this act.

Section 8. Section 720.404, Florida Statutes, is created to read:

720.404 Eligible residential communities; requirements for revival of declaration.—Parcel owners in a community are eligible to seek approval from the Department of Community Affairs to revive a declaration of covenants under this act if all of the following requirements are met:

(1) *All parcels to be governed by the revived declaration must have been once governed by a previous declaration that has ceased to govern some or all of the parcels in the community;*

(2) *The revived declaration must be approved in the manner provided in s. 720.405(6); and*

(3) *The revived declaration may not contain covenants that are more restrictive on the parcel owners than the covenants contained in the previous declaration, except that the declaration may:*

(a) *Have an effective term of longer duration than the term of the previous declaration;*

(b) *Omit restrictions contained in the previous declaration;*

(c) *Govern fewer than all of the parcels governed by the previous declaration;*

(d) *Provide for amendments to the declaration and other governing documents; and*

(e) *Contain provisions required by this chapter for new declarations that were not contained in the previous declaration.*

Section 9. Section 720.405, Florida Statutes, is created to read:

720.405 Organizing committee; parcel owner approval.—

(1) *The proposal to revive a declaration of covenants and a homeowners' association for a community under the terms of this act shall be initiated by an organizing committee consisting of not less than three parcel owners located in the community that is proposed to be governed by the revived declaration. The name, address, and telephone number of each member of the organizing committee must be included in any notice or other document provided by the committee to parcel owners to be affected by the proposed revived declaration.*

(2) *The organizing committee shall prepare or cause to be prepared the complete text of the proposed revised declaration of covenants to be submitted to the parcel owners for approval. The proposed revived documents must identify each parcel that is to be subject to the governing documents by its legal description, and by the name of the parcel owner or the person in whose name the parcel is assessed on the last completed tax assessment roll of the county at the time when the proposed revived declaration is submitted for approval by the parcel owners.*

(3) *The organizing committee shall prepare the full text of the proposed articles of incorporation and bylaws of the revived homeowners' association to be submitted to the parcel owners for approval, unless the association is then an existing corporation, in which case the organizing committee shall prepare the existing articles of incorporation and bylaws to be submitted to the parcel owners.*

(4) *The proposed revived declaration and other governing documents for the community shall:*

(a) *Provide that the voting interest of each parcel owner shall be the same as the voting interest of the parcel owner under the previous governing documents;*

(b) *Provide that the proportional-assessment obligations of each parcel owner shall be the same as proportional-assessment obligations of the parcel owner under the previous governing documents;*

(c) *Contain the same respective amendment provisions as the previous governing documents or, if there were no amendment provisions in the previous governing document, amendment provisions that require approval of not less than two-thirds of the affected parcel owners;*

(d) *Contain no covenants that are more restrictive on the affected parcel owners than the covenants contained in the previous governing documents, except as permitted under s. 720.402(3); and*

(e) *Comply with the other requirements for a declaration of covenants and other governing documents as specified in this chapter.*

(5) *A copy of the complete text of the proposed revised declaration of covenants, the proposed new or existing articles of incorporation and bylaws of the homeowners' association, and a graphic depiction of the property to be governed by the revived declaration shall be presented to all of the affected parcel owners by mail or hand delivery not less than 14 days before the time that the consent of the affected parcel owners to the proposed governing documents is sought by the organizing committee.*

(6) *A majority of the affected parcel owners must agree in writing to the revived declaration of covenants and governing documents of the homeowners' association or approve the revived declaration and governing documents by a vote at a meeting of the affected parcel owners noticed and conducted in the manner prescribed by s. 720.306. Proof of notice of the meeting to all affected owners of the meeting and the minutes of the meeting recording the votes of the property owners shall be certified by a court reporter or an attorney licensed to practice in the state.*

Section 10. Section 720.406, Florida Statutes, is created to read:

720.406 Department of Community Affairs; submission; review and determination.—

(1) *No later than 60 days after the date the proposed revived declaration and other governing documents are approved by the affected parcel owners, the organizing committee or its designee must submit the proposed revived governing documents and supporting materials to the Department of Community Affairs to review and determine whether to approve or disapprove of the proposal to preserve the residential community. The submission to the department must include:*

(a) *The full text of the proposed revived declaration of covenants and articles of incorporation and bylaws of the homeowners' association;*

(b) *A verified copy of the previous declaration of covenants and other previous governing documents for the community, including any amendments thereto;*

(c) *The legal description of each parcel to be subject to the revived declaration and other governing documents and a plat or other graphic depiction of the affected properties in the community;*

(d) *A verified copy of the written consents of the requisite number of the affected parcel owners approving the revived declaration and other governing documents or, if approval was obtained by a vote at a meeting of affected parcel owners, verified copies of the notice of the meeting, attendance, and voting results;*

(e) *An affidavit by a current or former officer of the association or by a member of the organizing committee verifying that the requirements for the revived declaration set forth in s. 720.404 have been satisfied; and*

(f) *Such other documentation that the organizing committee believes is supportive of the policy of preserving the residential community and operating, managing, and maintaining the infrastructure, aesthetic character, and common areas serving the residential community.*

(2) *No later than 60 days after receiving the submission, the department must determine whether the proposed revived declaration of covenants and other governing documents comply with the requirements of this act.*

(a) *If the department determines that the proposed revived declaration and other governing documents comply with the act and have been approved by the parcel owners as required by this act, the department shall notify the organizing committee in writing of its approval.*

(b) *If the department determines that the proposed revived declaration and other governing documents do not comply with this act or have not been approved as required by this act, the department shall notify the organizing committee in writing that it does not approve the governing documents and shall state the reasons for the disapproval.*

Section 11. Section 720.407, Florida Statutes, is created to read:

720.407 Recording; notice of recording; applicability and effective date.—

(1) No later than 30 days after receiving approval from the department, the organizing committee shall file the articles of incorporation of the association with the Division of Corporations of the Department of State if the articles have not been previously filed with the division.

(2) No later than 30 days after receiving approval from the division, the president and secretary of the association shall execute the revived declaration and other governing documents approved by the department in the name of the association and have the documents recorded with the clerk of the circuit court in the county where the affected parcels are located.

(3) The recorded documents shall include the full text of the approved declaration of covenants, the articles of incorporation and bylaws of the homeowners' association, the letter of approval by the department, and the legal description of each affected parcel of property. For purposes of chapter 712, the association is deemed to be and shall be indexed as the grantee in a title transaction and the parcel owners named in the revived declaration are deemed to be and shall be indexed as the grantors in the title transaction.

(4) Immediately after recording the documents, a complete copy of all of the approved recorded documents must be mailed or hand delivered to the owner of each affected parcel. The revived declaration and other governing documents shall be effective upon recordation in the public records with respect to each affected parcel subject thereto, regardless of whether the particular parcel owner approved the revived declaration. Upon recordation, the revived declaration shall replace and supersede the previous declaration with respect to all affected parcels then governed by the previous declaration and shall have the same record priority as the superseded previous declaration. With respect to any affected parcels that had ceased to be governed by the previous declaration as of the recording date, the revived declaration may not have retroactive effect with respect to the parcel and shall take priority with respect to the parcel as of the recording date.

(5) With respect to any parcel that has ceased to be governed by a previous declaration of covenants as of the effective date of this act, the parcel owner may commence an action within one year after the effective date of this act for a judicial determination that the previous declaration did not govern that parcel as of the effective date of this act and that any revival of such declaration as to that parcel would unconstitutionally deprive the parcel owner of rights or property. A revived declaration that is implemented pursuant to this act shall not apply to or affect the rights of the respective parcel owner recognized by any court order or judgment in any such action commenced within one year after the effective date of this act, and any such rights so recognized may not be subsequently altered by a revived declaration implemented under this act without the consent of the affected property owner.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 2, delete that line and insert: An act relating to condominium and community associations; amending s. 718.111, F.S.; providing immunity from liability for certain information provided by associations to prospective purchasers or lienholders under certain circumstances; amending s. 720.303, F.S.; requiring specific notice to be given to association members before certain assessments or rule changes may be considered at a meeting; amending s. 768.1325, F.S.; providing immunity from civil liability for community associations that provide automated defibrillator devices under certain circumstances; prohibiting insurers from requiring associations to purchase medical malpractice coverage as a condition of issuing other coverage; prohibiting insurers from excluding from coverage under a general liability policy damages resulting from the use of an automated external defibrillator device; amending ss. 718.112 and 719.1055, F.S.; revising notification and voting procedures with respect to any vote to forego retrofitting of the common areas of condominiums and cooperatives with fire sprinkler systems; amending s. 718.503, F.S.; requiring unit owners who are not developers to provide a specific question and answer disclosure document to certain prospective purchasers; creating s. 720.403, F.S.; providing legislative intent relating to the revival of governance of a community; creating s. 720.404, F.S.; providing eligibility to revive governance documents; specifying prerequisites to reviving governance documents; creating s. 720.405, F.S.; requiring the formation of an organizing committee; providing for membership; providing duties and responsibilities of the organizing committee; directing the organizing committee to prepare certain documents; providing for the contents of the documents;

providing for a vote of the eligible parcel owners; creating s. 720.406, F.S.; directing the organizing committee to file certain documents with the Department of Community Affairs; specifies the content of the submission to the department; requiring the department to approve or disapprove the request to revive the governance documents within a specified time period; creating s. 720.407, F.S.; requiring the organizing committee to file and record certain documents within a specified time period; directing the organizing committee to give all affected parcel owners a copy of the documents filed and recorded; providing for judicial determination of the effects of revived covenants on parcels; providing for effects of such a judicial determination;

MOTION

On motion by Senator Campbell, the rules were waived to allow the following amendments to be considered:

Senator Campbell moved the following amendments to **Amendment 4** which were adopted:

Amendment 4A (280618)(with title amendment)—On page 1, between lines 16 and 17, insert:

Section 1. Subsection (13) is added to section 718.110, Florida Statutes, to read:

718.110 Amendment of declaration; correction of error or omission in declaration by circuit court.—

(13) Any amendment restricting unit owners' rights relating to the rental of units applies only to unit owners who consent to the amendment and unit owners who purchase their units after the effective date of that amendment.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 21, line 2, after the first semicolon (;) insert: amending s. 718.110, F.S.; providing for the applicability of amendments restricting certain rights of unit owners;

Amendment 4B (371588)(with title amendment)—On page 20, line 23, insert:

Section 12. Subsection (16) of section 718.103, Florida Statutes, is amended to read:

718.103 Definitions.—As used in this chapter, the term:

(16) "Developer" means a person who creates a condominium or offers condominium parcels for sale or lease in the ordinary course of business, but does not include an owner or lessee of a condominium or cooperative unit who has acquired the unit for his or her own occupancy, nor does it include a cooperative association which creates a condominium by conversion of an existing residential cooperative after control of the association has been transferred to the unit owners if, following the conversion, the unit owners will be the same persons who were unit owners of the cooperative and no units are offered for sale or lease to the public as part of the plan of conversion. *A state, county, or municipal entity is not a developer for any purposes under this act when it is acting as a lessor and not otherwise named as a developer in the association.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 22, line 27, after the semicolon (;) insert: amending s. 718.103, F.S.; providing that certain governmental entities are not developers for certain purposes;

Amendment 4 as amended was adopted.

MOTION

On motion by Senator Campbell, the rules were waived to allow the following amendments to be considered:

Senators Campbell and Atwater offered the following amendments which were moved by Senator Campbell and adopted:

Amendment 5 (541790)(with title amendment)—On page 45, line 13-27, delete those lines and insert:

Section 15. Subsection (2) of section 558.002, Florida Statutes, is amended to read:

558.002 Definitions.—As used in this act, the term:

(2) “Association” has the same meaning as in s. 718.103(2), s. 719.103(2), s. 720.301(9) ~~s. 720.301(7)~~, or s. 723.025.

Section 16. *The Division of Statutory Revision is requested to designate sections 720.301-720.312, Florida Statutes, as part I of chapter 720, Florida Statutes; to designate sections 720.401 and 720.402, Florida Statutes, as part II of chapter 720, Florida Statutes, and entitle that part “DISCLOSURE PRIOR TO SALE OF RESIDENTIAL PARCELS”; to designate sections 720.403-720.407 as part III of chapter 720, Florida Statutes, and entitle that part “COVENANT REVITALIZATION”; and to designate section 720.501, Florida Statutes, as part IV of chapter 720, Florida Statutes, and entitle that part “RIGHTS AND OBLIGATIONS OF DEVELOPERS.”*

Section 17. *If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 3, line 2, after the semicolon (;) insert: providing for severability;

Amendment 6 (444852)—On page 44, line 29, delete “(8)” and insert: (9)

MOTION

On motion by Senator Geller, the rules were waived to allow the following amendment to be considered:

Senator Geller moved the following amendment which was adopted:

Amendment 7 (311690)(with title amendment)—On page 45, lines 28 and 29, delete those lines and insert:

Section 17. Subsection (4) is added to section 190.012, Florida Statutes, to read:

190.012 Special powers; public improvements and community facilities.—The district shall have, and the board may exercise, subject to the regulatory jurisdiction and permitting authority of all applicable governmental bodies, agencies, and special districts having authority with respect to any area included therein, any or all of the following special powers relating to public improvements and community facilities authorized by this act:

(4)(a) *To adopt rules necessary for the district to enforce certain deed restrictions pertaining to the use and operation of real property within the district. For the purpose of this subsection, “deed restrictions” are those covenants, conditions, and restrictions contained in any applicable declarations of covenants and restrictions that govern the use and operation of real property within the district and, for which covenants, conditions, and restrictions, there is no homeowners’ association or property owner’s association having respective enforcement powers. The district may adopt by rule all or certain portions of the deed restrictions that:*

1. *Relate to limitations or prohibitions that apply only to external structures and are deemed by the district to be generally beneficial for the district’s landowners and for which enforcement by the district is appropriate, as determined by the district’s board of supervisors; or*

2. *Are consistent with the requirements of a development order or regulatory agency permit.*

(b) *The board may vote to adopt such rules only when all of the following conditions exist:*

1. *The district’s geographic area contains no homeowners’ associations as defined in s. 720.301(7);*

2. *The district was in existence on the effective date of this subsection, or is located within a development that consists of multiple developments of regional impact and a Florida Quality Development;*

3. *The majority of the board has been elected by qualified electors pursuant to the provisions of s. 190.006; and*

4. *The declarant in any applicable declarations of covenants and restrictions has provided the board with a written agreement that such rules may be adopted. A memorandum of the agreement shall be recorded in the public records.*

(c) *Within 60 days after such rules taking effect, the district shall record a notice of rule adoption stating generally what rules were adopted and where a copy of the rules may be obtained. Districts may impose fines for violations of such rules and enforce such rules and fines in circuit court through injunctive relief.*

Section 18. Section 190.046, Florida Statutes, is amended to read:

190.046 Termination, contraction, or expansion of district.—

(1) The board may petition to contract or expand the boundaries of a community development district in the following manner:

(a) The petition shall contain the same information required by s. 190.005(1)(a)1. and 8. In addition, if the petitioner seeks to expand the district, the petition shall describe the proposed timetable for construction of any district services to the area, the estimated cost of constructing the proposed services, and the designation of the future general distribution, location, and extent of public and private uses of land proposed for the area by the future land use plan element of the adopted local government local comprehensive plan. If the petitioner seeks to contract the district, the petition shall describe what services and facilities are currently provided by the district to the area being removed, and the designation of the future general distribution, location, and extent of public and private uses of land proposed for the area by the future land element of the adopted local government comprehensive plan.

(b) For those districts initially established by county ordinance, the petition for ordinance amendment shall be filed with the county commission. If the land to be included or excluded is, in whole or in part, within the boundaries of a municipality, then the county commission shall not amend the ordinance without municipal approval. A public hearing shall be held in the same manner and with the same public notice as other ordinance amendments. The county commission shall consider the record of the public hearing and the factors set forth in s. 190.005(1)(e) in making its determination to grant or deny the petition for ordinance amendment.

(c) For those districts initially established by municipal ordinance pursuant to s. 190.005(2)(e), the municipality shall assume the duties of the county commission set forth in paragraph (b); however, if any of the land to be included or excluded, in whole or in part, is outside the boundaries of the municipality, then the municipality shall not amend its ordinance without county commission approval.

(d)1. For those districts initially established by administrative rule pursuant to s. 190.005(1), the petition shall be filed with the Florida Land and Water Adjudicatory Commission.

2. Prior to filing the petition, the petitioner shall pay a filing fee of \$1,500 to the county and to each municipality the boundaries of which are contiguous with or contain all or a portion of the land within the district or the proposed amendment, and submit a copy of the petition to the county and to each such municipality. In addition, if the district is not the petitioner, the petitioner shall file the petition with the district board of supervisors.

3. The county and each municipality shall have the option of holding a public hearing as provided by s. 190.005(1)(c). However, such public hearing shall be limited to consideration of the contents of the petition and whether the petition for amendment should be supported by the county or municipality.

4. The district board of supervisors shall, in lieu of a hearing officer, hold the local public hearing provided for by s. 190.005(1)(d). This local

public hearing shall be noticed in the same manner as provided in s. 190.005(1)(d). Within 45 days of the conclusion of the hearing, the district board of supervisors shall transmit to the Florida Land and Water Adjudicatory Commission the full record of the local hearing, the transcript of the hearing, any resolutions adopted by the local general-purpose governments, and its recommendation whether to grant the petition for amendment. The commission shall then proceed in accordance with s. 190.005(1)(e).

5. A rule amending a district boundary shall describe the land to be added or deleted.

(e) In all cases, written consent of all the landowners whose land is to be added to or deleted from the district shall be required. The filing of the petition for expansion or contraction by the district board of supervisors shall constitute consent of the landowners within the district other than of landowners whose land is proposed to be added to or removed from the district.

(f)1. During the existence of a district initially established by administrative rule, petitions to amend the boundaries of the district pursuant to paragraphs (a)-(e) shall be limited to a cumulative total of no more than 10 percent of the land in the initial district, and in no event shall all such petitions to amend the boundaries ever encompass more than a total of 250 acres.

2. For districts initially established by county or municipal ordinance, the limitation provided by this paragraph shall be a cumulative total of no more than 50 percent of the land in the initial district, and in no event shall all such petitions to amend the boundaries ever encompass more than a total of 500 acres.

3. Boundary expansions for districts initially established by county or municipal ordinance shall follow the procedure set forth in paragraph (b) or paragraph (c).

(g) Petitions to amend the boundaries of the district which exceed the amount of land specified in paragraph (f) shall be considered petitions to establish a new district and shall follow all of the procedures specified in s. 190.005.

(2) The district shall remain in existence unless:

(a) The district is merged with another district as provided in subsection (3);

(b) All of the specific community development *systems, facilities, and services* that it is authorized to perform have been transferred to a general-purpose unit of local government in the manner provided in subsections (4), (5), and (6); or

(c) The district is dissolved as provided in subsection (7), ~~or~~ subsection (8), *or subsection (9)*.

(3) The district may merge with other community development districts upon filing a petition for establishment of a community development district pursuant to s. 190.005 or may merge with any other special districts upon filing a petition for establishment of a community development district pursuant to s. 190.005. The government formed by a merger involving a community development district pursuant to this section shall assume all indebtedness of, and receive title to, all property owned by the preexisting special districts. Prior to filing said petition, the districts desiring to merge shall enter into a merger agreement and shall provide for the proper allocation of the indebtedness so assumed and the manner in which said debt shall be retired. The approval of the merger agreement by the board of supervisors elected by the electors of the district shall constitute consent of the landowners within the district.

(4) The local general-purpose government within the geographical boundaries of which the district lies may adopt a nonemergency ordinance providing for a plan for the transfer of a specific community development service from a district to the local general-purpose government. The plan must provide for the assumption and guarantee of the district debt that is related to the service by the local general-purpose government and must demonstrate the ability of the local general-purpose government to provide such service:

(a) As efficiently as the district.

(b) At a level of quality equal to or higher than the level of quality actually delivered by the district to the users of the service.

(c) At a charge equal to or lower than the actual charge by the district to the users of the service.

(5) No later than 30 days following the adoption of a transfer plan ordinance, the board of supervisors may file, in the circuit court for the county in which the local general-purpose government that adopted the ordinance is located, a petition seeking review by certiorari of the factual and legal basis for the adoption of the transfer plan ordinance.

(6) Upon the transfer of all of the community development services of the district to a general-purpose unit of local government, the district shall be terminated in accordance with a plan of termination which shall be adopted by the board of supervisors and filed with the clerk of the circuit court.

(7) If, within 5 years after the effective date of the rule or ordinance ~~establishing~~ ~~creating~~ the district, a landowner has not received a development permit, as defined in chapter 380, on some part or all of the area covered by the district, then the district will be automatically dissolved and a judge of the circuit court shall cause a statement to that effect to be filed in the public records.

(8) In the event the district has become inactive pursuant to s. 189.4044, the *respective* board of county commissioners *or city commission* shall be informed and it shall take appropriate action.

(9) *If a district has no outstanding financial obligations and no operating or maintenance responsibilities, upon the petition of the district, the district may be dissolved by a nonemergency ordinance of the general-purpose local governmental entity that established the district or, if the district was established by rule of the Florida Land and Water Adjudicatory Commission, the district may be dissolved by repeal of such rule of the commission.*

Section 19. Section 190.006, Florida Statutes, is amended to read:

190.006 Board of supervisors; members and meetings.—

(1) The board of the district shall exercise the powers granted to the district pursuant to this act. The board shall consist of five members; except as otherwise provided herein, each member shall hold office for a term of *2 years or 4 years, as provided in this section*, and until a successor is chosen and qualifies. The members of the board must be residents of the state and citizens of the United States.

(2)(a) Within 90 days following the effective date of the rule or ordinance establishing the district, there shall be held a meeting of the landowners of the district for the purpose of electing five supervisors for the district. Notice of the landowners' meeting shall be published once a week for 2 consecutive weeks in a newspaper which is in general circulation in the area of the district, the last day of such publication to be not fewer than 14 days or more than 28 days before the date of the election. The landowners, when assembled at such meeting, shall organize by electing a chair who shall conduct the meeting. *The chair may be any person present at the meeting. If the chair is a landowner or proxy holder of a landowner, he or she may nominate candidates and make and second motions.*

(b) At such meeting, each landowner shall be entitled to cast one vote per acre of land owned by him or her and located within the district for each person to be elected. A landowner may vote in person or by proxy in writing. *Each proxy must be signed by one of the legal owners of the property for which the vote is cast and must contain the typed or printed name of the individual who signed the proxy; the street address, legal description of the property, or tax parcel identification number; and the number of authorized votes. If the proxy authorizes more than one vote, each property must be listed and the number of acres of each property must be included. The signature on a proxy need not be notarized.* A fraction of an acre shall be treated as 1 acre, entitling the landowner to one vote with respect thereto. The two candidates receiving the highest number of votes shall be elected for a period of 4 years, and the three candidates receiving the next largest number of votes shall be elected for a period of 2 years, *with the term of office for each successful candidate commencing upon election.* The members of the first board elected by landowners shall serve their respective 4-year or 2-year terms; however, the next election by landowners shall be held on the first Tuesday in

November. Thereafter, there shall be an election of supervisors for the district every 2 years in November on a date established by the board and noticed pursuant to paragraph (a). *The second and subsequent landowners' election shall be announced at a public meeting of the board at least 90 days prior to the date of the landowners' meeting and shall also be noticed pursuant to paragraph (a). Instructions on how all landowners may participate in the election, along with sample proxies, shall be provided during the board meeting that announces the landowners' meeting.* The two candidates receiving the highest number of votes shall be elected to serve for a 4-year period, and the remaining candidate elected shall serve for a 2-year period.

(3)(a)1. If the board proposes to exercise the ad valorem taxing power authorized by s. 190.021, the district board shall call an election at which the members of the board of supervisors will be elected. Such election shall be held in conjunction with a primary or general election unless the district bears the cost of a special election. Each member shall be elected by the qualified electors of the district for a term of 4 years, except that, at the first such election, three members shall be elected for a period of 4 years and two members shall be elected for a period of 2 years. All elected board members must be qualified electors of the district.

2.a. Regardless of whether a district has proposed to levy ad valorem taxes, commencing 6 years after the initial appointment of members or, for a district exceeding 5,000 acres in area, 10 years after the initial appointment of members, the position of each member whose term has expired shall be filled by a qualified elector of the district, elected by the qualified electors of the district. However, for those districts established after June 21, 1991, and for those existing districts established after December 31, 1983, which have less than 50 qualified electors on June 21, 1991, sub-subparagraphs b. and d. e. shall apply.

~~b. For those districts to which this sub-subparagraph applies~~ If, in the 6th year after the initial appointment of members, or 10 years after such initial appointment for districts exceeding 5,000 acres in area, there are not at least 250 qualified electors in the district, or for a district exceeding 5,000 acres, there are not at least 500 qualified electors, members of the board shall continue to be elected by landowners.

~~b. After the 6th or 10th year, once a district reaches 250 or 500 qualified electors, respectively, then the positions position of two board members whose terms are expiring shall be filled by qualified electors of the district, elected by the qualified electors of the district for 4-year terms. One of these board members shall serve a 2-year term, and the other a 4-year term. The remaining board member whose term is expiring shall be elected for a 4-year term by the landowners and is not required to be a qualified elector. Thereafter, as terms expire, board members shall be qualified electors elected by qualified electors of the district for a term of 4 years.~~

~~c. Once a district qualifies to have any of its board members elected by the qualified electors of the district, the initial and all subsequent elections by the qualified electors of the district shall be held at the general election in November. The board shall adopt a resolution if necessary to implement this requirement when the board determines the number of qualified electors as required by sub-subparagraph d., to extend or reduce the terms of current board members.~~

~~d.e. On or before June 1 July 15 of each year, the board shall determine the number of qualified electors in the district as of the immediately preceding April 15 June 1. The board shall use and rely upon the official records maintained by the supervisor of elections and property appraiser or tax collector in each county in making this determination. Such determination shall be made at a properly noticed meeting of the board and shall become a part of the official minutes of the district.~~

(b) Elections of board members by qualified electors held pursuant to this subsection shall be *nonpartisan and shall be* conducted in the manner prescribed by law for holding general elections. *Board members shall assume the office on the second Tuesday following their election.*

(c) Candidates seeking election to office by qualified electors under this subsection shall conduct their campaigns in accordance with the provisions of chapter 106 and shall file qualifying papers and qualify for individual seats in accordance with s. 99.061. *Candidates shall pay a qualifying fee, which shall consist of a filing fee and an election assessment or, as an alternative, shall file a petition signed by not less than 1 percent of the registered voters of the district, Candidates shall file petitions, and take the oath required in s. 99.021, with the supervisor of*

elections in the county affected by such candidacy. The amount of the filing fee is 3 percent of \$4,800; however, if the electors have provided for compensation pursuant to subsection (8), the amount of the filing fee is 3 percent of the maximum annual compensation so provided. The amount of the election assessment is 1 percent of \$4,800; however, if the electors have provided for compensation pursuant to subsection (8), the amount of the election assessment is 1 percent of the maximum annual compensation so provided. The filing fee and election assessment shall be distributed as provided in s. 105.031(3).

(d) The supervisor of elections shall appoint the inspectors and clerks of elections, prepare and furnish the ballots, designate polling places, and canvass the returns of the election of board members by qualified electors. ~~The county canvassing board of county commissioners shall declare and certify the results of the election.~~

(4) Members of the board shall be known as supervisors and, upon entering into office, shall take and subscribe to the oath of office as prescribed by s. 876.05. They shall hold office for the terms for which they were elected or appointed and until their successors are chosen and qualified. If, during the term of office, a vacancy occurs, the remaining members of the board shall fill the vacancy by an appointment for the remainder of the unexpired term.

(5) A majority of the members of the board constitutes a quorum for the purposes of conducting its business and exercising its powers and for all other purposes. Action taken by the district shall be upon a vote of a majority of the members present unless general law or a rule of the district requires a greater number.

(6) As soon as practicable after each election or appointment, the board shall organize by electing one of its members as chair and by electing a secretary, who need not be a member of the board, and such other officers as the board may deem necessary.

(7) The board shall keep a permanent record book entitled "Record of Proceedings of (name of district) Community Development District," in which shall be recorded minutes of all meetings, resolutions, proceedings, certificates, bonds given by all employees, and any and all corporate acts. The record book shall at reasonable times be opened to inspection in the same manner as state, county, and municipal records pursuant to chapter 119. The record book shall be kept at the office or other regular place of business maintained by the board in the county or municipality in which the district is located or within the boundaries of a development of regional impact or Florida Quality Development, or combination of a development of regional impact and Florida Quality Development, which includes the district.

(8) Each supervisor shall be entitled to receive for his or her services an amount not to exceed \$200 per meeting of the board of supervisors, not to exceed \$4,800 per year per supervisor, or an amount established by the electors at referendum. In addition, each supervisor shall receive travel and per diem expenses as set forth in s. 112.061.

(9) All meetings of the board shall be open to the public and governed by the provisions of chapter 286.

Section 20. This act shall take effect upon becoming a law, except sections 1 through 16, which shall take effect October 1, 2004.

And the title is amended as follows:

On page 3, delete line 3 and insert: amending s. 190.012, F.S.; providing for the enforcement of deed restrictions in certain circumstances; amending s. 190.046, F.S.; providing for additional dissolution procedures; amending s. 190.006, F.S.; specifying procedures for selecting a chair at the initial landowners' meeting; specifying requirements for proxy voting; requiring notice of landowners' elections; specifying the terms of certain supervisors; providing for nonpartisan elections; specifying the time that resident supervisors assume office; authorizing the supervisor of elections to designate seat numbers for resident supervisors of the board; providing procedures for filing qualifying papers; allowing candidates the option of paying a filing fee to qualify for the election; specifying payment requirements; specifying the number of petition signatures required to qualify for the election; requiring the county canvassing board to certify the results of resident elections; providing effective dates.

Pursuant to Rule 4.19, CS for CS for SB 2984 as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

THE PRESIDENT PRESIDING

SB 2922—A bill to be entitled An act relating to public records exemptions; amending s. 1004.43, F.S.; clarifying the public records exemption for proprietary confidential business information owned or controlled by the not-for-profit corporation operating the H. Lee Moffitt Cancer Center and Research Institute and its subsidiaries relating to trade secrets; expanding the public records exemption to include information received from a person in this or another state or nation or the Federal Government which is otherwise exempt or confidential pursuant to the laws of this or another state or nation or pursuant to federal law; providing for future review and repeal; providing a statement of public necessity; providing an effective date.

—was read the second time by title.

MOTION

On motion by Senator Miller, the rules were waived to allow the following amendment to be considered:

Senator Miller moved the following amendment:

Amendment 1 (902042)(with title amendment)—On page 5, line 21 through page 6, line 10, delete those lines and insert: *Florida Statutes. To fulfill its legislative mandate of research, education, treatment, prevention, and the early detection of cancer, an exemption of confidential and proprietary information relating to business transactions will allow the not-for-profit corporation and its subsidiaries to more effectively partner with other researchers. Although information relating to business transactions may not qualify as intellectual property, the terms and pricing of a research transaction and, in some cases, the very fact of a research transaction may be considered confidential information concerning an entity. This exemption will assure collaborating partners that their confidential business information will remain confidential and exempt from public disclosure if shared with the not-for-profit corporation or its subsidiaries. The Legislature finds that the ability of the not-for-profit corporation and its subsidiaries to conduct meaningful scientific research and meet their obligations will be significantly impaired if certain proprietary business information or scientific research is not made confidential and exempt from public disclosure. Specifically, the Legislature finds that it is a public necessity to make exempt and confidential proprietary business information or scientific research that relates to methods of manufacture or production, potential trade secrets, patentable material, actual trade secrets as defined in section 688.002, Florida Statutes, or proprietary information received, generated, ascertained, or discovered by or through the not-for-profit corporation or its subsidiaries because the disclosure of this information would negate the benefit expected by exposing valuable proprietary work to competitors. Business transactions resulting from scientific research must be held confidential and exempt from public records requirements because the disclosure of such information would create an unfair competitive advantage for the person receiving such information. Such an advantage would adversely impact the not-for-profit corporation and its subsidiaries. If confidential and exempt information regarding research in progress were released pursuant to a public records request, others would be allowed to derive benefit from the research without compensation or reimbursement to the not-for-profit corporation or its subsidiaries. Without the exemptions provided for in this act, the disclosure of confidential and exempt information would place the not-for-profit corporation or its subsidiaries on an unequal footing in the marketplace as compared with other research competitors whose information is kept confidential and exempt. The Legislature finds that disclosure of confidential and exempt information would adversely impact the not-for-profit corporation or its subsidiaries in fulfilling the mission of research.*

(3) *The Legislature further finds that information received by the not-for-profit corporation or its subsidiaries from a person in this or another state or nation or the Federal Government which is otherwise exempt or confidential pursuant to the laws of this or another state or nation or pursuant to federal law should remain exempt or confidential because the highly confidential nature of cancer-related research necessitates that the not-for-profit corporation or its subsidiaries be authorized to maintain*

the status of exempt or confidential information it receives from the sponsors of research. Without the exemptions provided for in this act, the disclosure of exempt and confidential information would place the not-for-profit corporation on an unequal footing in the marketplace as compared with its private health care and medical research competitors that are not required to disclose such exempt and confidential information. The Legislature finds that the disclosure of such exempt and confidential information would adversely impact the not-for-profit corporation or its subsidiaries in fulfilling their mission of cancer treatment, research, and education.

Section 4. Subsection (9) of section 1004.445, Florida Statutes, is amended, and subsection (10) is added to said section, to read:

1004.445 Florida Alzheimer's Center and Research Institute.—

(9)(a) The following information is confidential and exempt from the provisions of s. 119.07(1) and s. 24, Art. I of the State Constitution:

1.(a) Personal identifying information relating to clients of programs created or funded through the Florida Alzheimer's Center and Research Institute which is held by the institute, the University of South Florida, or the State Board of Education or by persons who provide services to clients of programs created or funded through contracts with the Florida Alzheimer's Center and Research Institute;

2.(b) Any medical or health records relating to patients which may be created or received by the institute;

3. *Proprietary confidential business information. As used in this subparagraph, the term "proprietary confidential business information" means information, regardless of its form or characteristics, which is owned or controlled by the institute; is intended to be and is treated by the institute as private and the disclosure of which would harm the business operations of the institute; has not been intentionally disclosed by the institute unless pursuant to law, an order of a court or administrative body, a legislative proceeding pursuant to s. 5, Art. III of the State Constitution, or a private agreement that provides that the information may be released to the public; and which is information concerning:*

a. *Trade secrets as defined in s. 688.002, including information relating*

~~(c) Materials that relate to methods of manufacture or production, potential trade secrets, potentially patentable material, actual trade secrets as defined in s. 688.002, or proprietary information received, generated, ascertained, or discovered during the course of research conducted by or through the institute and business transactions resulting from such research, and reimbursement methodologies or rates.;~~

b.(d) The identity of a donor or prospective donor to the Florida Alzheimer's Center and Research institute who wishes to remain anonymous, and all information identifying such donor or prospective donor.;

c.(e) Any information received by the institute in the performance of its duties and responsibilities which is otherwise confidential and exempt by law.;

d.(f) Any information received by the institute from a person from another state or nation or the Federal Government which is otherwise confidential or exempt pursuant to that state's or nation's laws or pursuant to federal law.

e. *Internal auditing controls and reports of internal auditors.*

f. *Contracts for managed-care arrangements, including preferred provider organization contracts, health maintenance organization contracts, and exclusive provider organization contracts, and any documents directly relating to the negotiation, performance, and implementation of any such contracts for managed-care arrangements.*

g. *Bids or other contractual data, banking records, and credit agreements the disclosure of which would impair the efforts of the institute to contract for goods or services on favorable terms.*

h. *Information relating to private contractual data, the disclosure of which would impair the competitive interest of the provider of the information.*

- i. Corporate officer and employee personnel information.
- j. Information relating to the proceedings and records of the credentialing panels and committees and of the governing board of the institute relating to credentialing.
- k. Minutes of exempt meetings of the governing board of the institute.
- l. Information that reveals plans for marketing services that the institute reasonably expects to be provided by competitors.

As used in this subparagraph, the term “managed care” means systems or techniques generally used by third-party payors or their agents to affect access to and control payment for health care services. Managed-care techniques most often include one or more of the following: prior, concurrent, and retrospective review of the medical necessity and appropriateness of services or site of services; contracts with selected health care providers; financial incentives or disincentives related to the use of specific providers, services, or service sites; controlled access to and coordination of services by a case manager; and payor efforts to identify treatment alternatives and modify benefit restrictions for high-cost patient care.

(b) The Auditor General, the Office of Program Policy Analysis and Government Accountability, and the State Board of Education, pursuant to their oversight and auditing functions, shall be given access to all proprietary confidential business information upon request and without subpoena and must maintain the confidentiality of information so received.

(c) Any governmental entity that demonstrates a need to access such confidential and exempt information in order to perform its duties and responsibilities shall have access to such information and shall otherwise keep such information confidential and exempt.

(d) This subsection is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15 and shall stand repealed on October 2, 2009 ~~2006~~, unless reviewed and saved from repeal through reenactment by the Legislature.

(10)(a) Meetings or portions of meetings of the governing board of the Florida Alzheimer’s Center and Research Institute at which information is discussed that is made confidential and exempt pursuant to subsection (9) are exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution.

(b) This subsection is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15 and shall stand repealed on October 2, 2009, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 5. The Legislature finds that it is a public necessity that proprietary confidential business information owned or controlled by the Florida Alzheimer’s Center and Research Institute, which includes reimbursement methodologies or rates; internal auditing controls and reports of internal auditors; contracts for managed-care arrangements and any documents directly relating to the negotiation, performance, and implementation of any such contracts for managed-care arrangements; bids or other contractual data, banking records, and credit agreements; information relating to private contractual data; corporate officer and employee personnel information; information relating to the proceedings and records of the credentialing panels and committees and of the governing board of the institute relating to credentialing; minutes of meetings of the governing board of the institute; and information that reveals plans for marketing services that the institute reasonably expects to be provided by competitors be held confidential and exempt from public disclosure. The institute must compete directly with its private-sector counterparts. Its economic survival depends on the institute’s ability to so compete. As such, these exemptions are necessary because release of this information would adversely impact the institute in the competitive health care and medical research environment. Disclosure of such information would place the institute on an unequal footing in the marketplace as compared with private health care providers that are not required to disclose such confidential and exempt information. The highly confidential nature of Alzheimer-related research discoveries necessitates that the institute be authorized to maintain confidential information it receives from, or generates for, the sponsors of its research. Accordingly, disclosure of such information would impede the effective and efficient administration of the Florida Alzheimer’s Center and Research Institute and would create an unfair competitive advantage for persons or entities receiving such

information. Also, such information is of a sensitive, personal nature regarding corporate officers and employees. Disclosure of such information could be harmful to the officer or employee. It is likewise a public necessity that certain meetings or portions of meetings of the governing board of the institute be closed in order to protect the competitive interest of the institute and to guarantee the ability of the governing board to fulfill its Alzheimer’s disease research and teaching mission for the benefit of the public. Furthermore, disclosing information made confidential and exempt pursuant to the institute’s public records exemption via an open meeting defeats the purpose of the public records exemption.

Section 6. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

And the title is amended as follows:

On page 1, line 17, after the semicolon (;) insert: amending s. 1004.445, F.S.; creating a public records exemption for proprietary confidential business information owned or controlled by the Florida Alzheimer’s Center and Research Institute; specifying types of information that are deemed proprietary confidential business information; defining “managed care” for purposes of the act; creating a public meetings exemption for specified meetings or portions of meetings of the governing board of the Florida Alzheimer’s Center and Research Institute; providing for future review and repeal; providing a statement of public necessity; providing severability;

On motion by Senator Miller, further consideration of **SB 2922** with pending **Amendment 1 (902042)** was deferred.

SENATOR WEBSTER PRESIDING

On motion by Senator Cowin—

CS for SB’s 244 and 1566—A bill to be entitled An act relating to the tax on sales, use, and other transactions; providing a short title; specifying periods during which the sale of clothing, wallets, bags, school supplies, and books shall be exempt from such tax; defining the terms “clothing,” “school supplies,” and “books” for purposes of the exemption; providing that the exemption does not apply to sales within certain theme parks, entertainment complexes, public lodging establishments, or airports; providing for rules by the Department of Revenue; providing an appropriation; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **CS for SB’s 244 and 1566** was placed on the calendar of Bills on Third Reading.

On motion by Senator Alexander—

CS for CS for SB 2954—A bill to be entitled An act relating to migrant labor; amending s. 450.191, F.S.; authorizing the Executive Office of the Governor to advise and consult concerning improvements in the working conditions of migrant workers; authorizing the Executive Office of the Governor to provide coordination for farm labor registration, cooperate with the Department of Business and Professional Regulation on enforcing labor laws, and cooperate with the Agency for Workforce Innovation in recruiting migrant laborers; amending s. 450.201, F.S.; requiring the Legislative Commission on Migrant and Seasonal Labor to make appointments and hold its first meeting; amending s. 450.231, F.S.; specifying when the commission must report to the Legislature; amending s. 450.27, F.S.; renaming part III of ch. 450, F.S.; amending s. 450.271, F.S.; substituting the Department of Business and Professional Regulation for the Department of Labor and Employment Security as the entity authorized to administer the federal Migrant and Seasonal Agricultural Worker Protection Act; amending s. 450.28, F.S.; defining major and minor violations; amending s. 450.30, F.S.; requiring an applicant for renewal of a certificate of registration as a farm labor contractor to retake the competency examination when convicted or penalized for committing a major violation within a specified time; depositing certain fees received from applicants for a certificate of registration into the Professional Regulation Trust Fund; amending s. 450.31,

F.S.; increasing the application fee for a certificate of registration; revising payment requirements; requiring an applicant for a certificate of registration to designate an agent to receive service of process and documents; authorizing the department to revoke, suspend, or deny a certificate of registration under certain circumstances; providing that receipt of a certification of registration constitutes permission by the farm labor contractor for department personnel to inspect certain documents; creating s. 450.321, F.S.; authorizing the department to develop and implement a best practices incentive program for farm labor contractors; authorizing the department to enter a partnership agreement with a contractor regarding such designation; authorizing use of the designation to solicit business; authorizing revocation of designation and requiring cessation of use; prohibiting characterization of the designation as an endorsement by the department; exempting the department from civil liability; authorizing the department to establish an incentive program for contractors holding a valid designation; amending s. 450.33, F.S.; revising the powers of the department regarding revocation of a contractor's certificate of registration; adding maintenance of certain employee field records to the duties a contractor must perform; amending s. 450.34, F.S.; prohibiting a contractor from taking retaliatory action and from contracting with or employing certain persons who lack a valid certificate; amending s. 450.35, F.S.; prohibiting a person from contracting with or employing a farm labor contractor without a certificate of registration; providing penalties; amending s. 450.37, F.S.; authorizing the department to cooperate and enter into agreements with other state agencies; amending s. 450.38, F.S.; revising the penalties imposed for violations of part III of ch. 450, F.S.; clarifying applicability of penalties to a firm, association, or corporation; increasing the maximum civil penalty; authorizing civil penalties or the revocation of registration if a contractor commits one or more minor violations; creating s. 450.39, F.S.; prohibiting a farm labor contractor from requiring a farmworker to make certain purchases; prohibiting a contractor from charging a farmworker more than the reasonable cost for a commodity; amending s. 381.0087, F.S.; clarifying that a person who willfully refuses a citation commits a second-degree misdemeanor; requiring the Department of Health to notify the enforcing entity of suspected violations; amending s. 381.008, F.S.; defining the term "residential migrant housing" to include structures rented or reserved for occupancy by seasonal workers; excluding from that definition a single-family residence or mobile home that is occupied only by a single family; amending s. 381.0086, F.S.; requiring the Department of Health to include certain provisions relative to plan review of residential migrant housing in rules; prohibiting a structural variance for the purpose of filing an interstate clearance order with the Agency for Workforce Innovation; amending ss. 487.011, 487.012, 487.021, 487.025, 487.031, 487.041, 487.0435, 487.045, 487.046, 487.047, 487.049, 487.051, 487.0615, 487.071, 487.081, 487.091, 487.101, 487.111, 487.13, 487.156, 487.159, 487.161, 487.163, 487.171, 487.175, 403.088, 482.242, 500.03, and 570.44, F.S.; changing the term "chapter" to "part" to conform to changes made by the act; creating part II of ch. 487, F.S.; providing a short title; providing for administration by the Department of Agriculture and Consumer Services; declaring legislative intent; defining terms; requiring the department to continue to operate under specified federal worker protection regulations; providing for application unless exempted by federal law; requiring an agricultural employer to make pesticide information available to an agricultural worker; authorizing requests by the worker, a designated representative, or medical personnel treating the worker; requiring the manufacturer of an agricultural pesticide to prepare a material safety data sheet; requiring provision of the data sheet to each direct purchaser; requiring the department to produce and make available a general agricultural pesticide safety sheet; prohibiting an agricultural employer from failing to provide required pesticide information or taking retaliatory action; providing penalties for an agricultural employer who violates part II of ch. 487, F.S.; allowing a worker who seeks relief for retaliatory action to file a complaint with the department; requiring that the department monitor complaints of retaliation and report findings to the President of the Senate and the Speaker of the House of Representatives; requesting the Division of Statutory Revision to designate parts I and II of ch. 487, F.S.; providing an appropriation and authorizing positions; providing an effective date.

—was read the second time by title.

Senator Alexander moved the following amendments which were adopted:

Amendment 1 (112494)—On page 32, line 12, delete "chapter" and insert: *part chapter*

Amendment 2 (945832)—On page 49, line 30, delete "1707" and insert: *170.7*

Pursuant to Rule 4.19, **CS for CS for CS for SB 2954** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Sebesta—

CS for SB 1122—A bill to be entitled An act relating to highway designations; designating the Old Gandy access road in Hillsborough County from Gandy Boulevard to the Friendship Trail Bridge as "Andrew J. Aviles Trail"; directing the Department of Transportation to erect suitable markers; providing an effective date.

—was read the second time by title.

An amendment was considered and adopted to conform **CS for SB 1122** to **HB 9**.

Pending further consideration of **CS for SB 1122** as amended, on motion by Senator Sebesta, by two-thirds vote **HB 9** was withdrawn from the Committee on Transportation.

On motion by Senator Sebesta, the rules were waived and—

HB 9—A bill to be entitled An act relating to road and bridge designations; designating Howard E. Futch Memorial Highway in Brevard and Osceola Counties; designating Ed Fraser Memorial Highway in Baker County; designating Trooper Charles W. Parks Memorial Highway in Nassau County; designating Deputy Renee Danell Azure Memorial Highway in Union County; designating Andrew J. Aviles Trail in Hillsborough County; designating Private Robert M. McTureous, Jr., U.S.M.C., Medal of Honor Memorial Highway in Lake County; designating the St. Johns River Veterans Memorial Bridge in Volusia and Seminole Counties; designating the Florida Veterans Memorial Bridge in Sumter County; designating Deputy Charles "Chuck" Sease Memorial Interchange in Flagler County; designating Larry E. Smedley Medal of Honor Highway in Orange County; designating Jerome A. Williams Memorial Highway in Putnam County; designating the James H. Pruitt Memorial Bridge in Brevard and Indian River Counties; designating the Arthor L. Andrews Bridge in Wakulla County; designating Roberto Guevara Memorial Boulevard in Osceola County; designating Veterans Memorial Interchange in Orange County; designating William C. Cramer Interstate Highway in Pinellas County; designating President Ronald Reagan Parkway in Hillsborough County; designating Roberto Guevara Memorial Boulevard in Osceola County; directing the Department of Transportation to erect suitable markers; providing an effective date.

—a companion measure, was substituted for **CS for SB 1122** as amended and read the second time by title.

Senator Sebesta moved the following amendment which was adopted:

Amendment 1 (910690)(with title amendment)—Delete everything after the enacting clause and insert:

Section 1. *Browning-Pearce Memorial Highway designated; department to erect suitable markers.—*

(1) *That portion of State Road 207 between Interstate Highway 95 in St. Johns County and the intersection with U.S. Highway 17 in Putnam County is designated as "Browning-Pearce Memorial Highway."*

(2) *The Department of Transportation is directed to erect suitable markers designating Browning-Pearce Memorial Highway as described in subsection (1).*

Section 2. *Jerome A. Williams Memorial Highway designated; department to erect suitable markers.—*

(1) *That portion of U.S. Highway 17 in Putnam County from Crescent City south to the border at Volusia County is designated as "Jerome A. Williams Memorial Highway."*

(2) *The Department of Transportation is directed to erect suitable markers designating Jerome A. Williams Memorial Highway as described in subsection (1).*

Section 3. *James C. Penney Memorial Boulevard designated; department to erect suitable markers.—*

(1) *That portion of State Road 16 in Clay County within the town limits of the Town of Penney Farms is designated as “James C. Penney Memorial Boulevard.”*

(2) *The Department of Transportation is directed to erect suitable markers designating James C. Penney Memorial Boulevard as described in subsection (1).*

Section 4. *C. Fred and Marvin Arrington Bridge designated; department to erect suitable markers.—*

(1) *The C. Fred Arrington Bridge located on U.S. Highway 27 between Tallahassee and Havana and crossing the Ochlockonee River is designated as “C. Fred and Marvin Arrington Bridge.”*

(2) *The Department of Transportation is directed to erect suitable markers designating C. Fred and Marvin Arrington Bridge as described in subsection (1).*

Section 5. *Howard E. Futch Memorial Highway designated; department to erect suitable markers.—*

(1) *That portion of U.S. Highway 192 from Interstate Highway 95 in Brevard County to St. Cloud in Osceola County is designated as “Howard E. Futch Memorial Highway.”*

(2) *The Department of Transportation is directed to erect suitable markers designating Howard E. Futch Memorial Highway as described in subsection (1).*

Section 6. *St. Johns River Veterans Memorial Bridge designated; department to erect suitable markers.—*

(1) *The St. Johns River Bridge on I-4 at the Seminole/Volusia County line is designated as the “St. Johns River Veterans Memorial Bridge.”*

(2) *The Department of Transportation is directed to erect suitable markers designating the St. Johns River Veterans Memorial Bridge as described in subsection (1).*

Section 7. *Ed Fraser Memorial Highway designated; department to erect suitable markers.—*

(1) *State Road 121, from the Georgia-Florida line in Baker County to the city limits of Lake Butler in Union County is designated as the “Ed Fraser Memorial Highway.”*

(2) *The Department of Transportation is directed to erect suitable markers designating the Ed Fraser Memorial Highway as described in subsection (1).*

Section 8. *Trooper Charles W. Parks Memorial Highway designated; department to erect suitable markers.—*

(1) *That portion of Interstate 95 in Nassau County is designated as the “Trooper Charles W. Parks Memorial Highway.”*

(2) *The Department of Transportation is directed to erect suitable markers designating Trooper Charles W. Parks Memorial Highway as described in subsection (1).*

Section 9. *Deputy Renee Danell Azure Memorial Highway designated; department to erect suitable markers.—*

(1) *State Road 121, from the Union County line to the city limits of the City of Lake Butler, is designated as the “Deputy Renee Danell Azure Memorial Highway.”*

(2) *The Department of Transportation is directed to erect suitable markers designating the Deputy Renee Danell Azure Memorial Highway as described in subsection (1).*

Section 10. *Robert Guevara Memorial Highway designated; department to erect suitable markers.—*

(1) *The portion of U.S. Highway 17/92/441 (Orange Blossom Trail) in Osceola County from U.S. Highway 192 to the Orange County line is designated “Robert Guevara Memorial Highway.”*

(2) *The Department of Transportation is directed to erect suitable markers designating the Robert Guevara Memorial Highway as described in subsection (1).*

Section 11. *William H. Turner Memorial Boulevard designated; department to erect suitable markers.—*

(1) *That portion of N.W. 103rd Street from N.W. 3rd Avenue to N.W. 32nd Avenue in Miami-Dade County is designated as “William H. Turner Memorial Boulevard.”*

(2) *The Department of Transportation is directed to erect suitable markers designating William H. Turner Memorial Boulevard as described in subsection (1).*

Section 12. *Clifford C. Sims Parkway designated; department to erect suitable markers.—*

(1) *That portion of U.S. Highway 98 in Gulf County, from the Tapper Bridge to the First United Methodist Church at 1001 Constitution Drive in the City of Port St. Joe is designated as the “Clifford C. Sims Parkway.”*

(2) *The Department of Transportation is directed to erect suitable markers designating Clifford C. Sims Parkway as described in subsection (1).*

Section 13. *Florida Veterans Memorial Bridge designated; department to erect suitable markers.—*

(1) *The bridge on I-75 at the Lake Panasoffkee area exit in Sumter County is designated as “Florida Veterans Memorial Bridge.”*

(2) *The Department of Transportation is directed to erect suitable markers designating Florida Veterans Memorial Bridge as described in subsection (1).*

Section 14. *Extension of the Florida Arts Trail; Department of Transportation to erect suitable markers.—*

(1) *That portion of U.S. Highway 90 between the City of Monticello in Jefferson County and the border at Suwannee County in Madison County is designated as part of the “Florida Arts Trail.”*

(2) *The Department of Transportation is directed to erect suitable markers designating the Florida Arts Trail as described in subsection (1).*

Section 15. *Arthur L. Andrews Bridge designated in honor of Wakulla County veterans; Department of Transportation to erect suitable markers.—*

(1) *The Buckhorn Creek Bridge on State Road 375 in Wakulla County is designated as the “Arthur L. Andrews Bridge” in honor of Wakulla County veterans.*

(2) *The Department of Transportation is directed to erect suitable markers designating the Arthur L. Andrews Bridge as described in subsection (1) with the words “In Honor of Wakulla County Veterans” inscribed below the name.*

Section 16. *L. E. Buie Memorial Bridge designated; department to erect suitable markers.—*

(1) *The Skypass Bridge (bridge number 930470) in the City of Riviera Beach in Palm Beach County is designated as “L. E. Buie Memorial Bridge.”*

(2) *The Department of Transportation is directed to erect suitable markers designating the L. E. Buie Memorial Bridge as described in subsection (1).*

Section 17. *Forest Ranger Edward O. Peters Memorial Highway designated; Department of Transportation to erect suitable markers.—*

(1) *That portion of State Road 24 between County Road 345 and U.S. Highway 19 in Levy County is designated as “Forest Ranger Edward O. Peters Memorial Highway.”*

(2) *The Department of Transportation is directed to erect suitable markers designating Forest Ranger Edward O. Peters Memorial Highway as described in subsection (1).*

Section 18. *Dr. T. Stewart Greer Avenue designated; Department of Transportation to erect suitable markers.—*

(1) *That portion of N.W. 27th Avenue in Miami-Dade County, from N.W. 119th Street to N.W. 135th Street is designated as “Dr. T. Stewart Greer Avenue.”*

(2) *The Department of Transportation is directed to erect suitable markers designating Dr. T. Stewart Greer Avenue as described in subsection (1).*

Section 19. *Andrew J. Aviles Trail designated; Department of Transportation to erect suitable markers.—*

(1) *That portion of the Old Gandy Access Road number 10-130-000 between Gandy Boulevard and the Friendship Trail Bridge, Department of Transportation number 10-130-001, in Hillsborough County is designated as “Andrew J. Aviles Trail.”*

(2) *The Department of Transportation is directed to erect suitable markers designating Andrew J. Aviles Trail as described in subsection (1).*

Section 20. *Private Robert M. McTureous, Jr., U.S.M.C., Medal of Honor Memorial Highway designated; Department of Transportation to erect suitable markers.—*

(1) *That portion of State Road 19 in Lake County from the north end of Lake County to the intersection of State Road 19 and U.S. Highway 441 in Eustis is designated as “Private Robert M. McTureous, Jr., U.S.M.C., Medal of Honor Memorial Highway.”*

(2) *The Department of Transportation is directed to erect suitable markers designating Private Robert M. McTureous, Jr., U.S.M.C., Medal of Honor Memorial Highway as described in subsection (1).*

Section 21. *Deputy Charles “Chuck” Sease Memorial Interchange designated; Department of Transportation to erect suitable markers.—*

(1) *The interchange of Interstate Highway 95 and State Road 100 at exit number 284 in Flagler County is designated as “Deputy Charles ‘Chuck’ Sease Memorial Interchange.”*

(2) *The Department of Transportation is directed to erect suitable markers designating Deputy Charles “Chuck” Sease Memorial Interchange as described in subsection (1).*

Section 22. *Cpl. Larry E. Smedley Medal of Honor Highway designated; Department of Transportation to erect suitable markers.—*

(1) *That portion of Interstate 4 from State Road 436 to State Road 50 is designated as “Larry E. Smedley Medal of Honor Highway.”*

(2) *The Department of Transportation is directed to erect suitable markers designating Larry E. Smedley Medal of Honor Highway as described in subsection (1).*

Section 23. *James H. Pruitt Memorial Bridge designated; Department of Transportation to erect suitable markers.—*

(1) *The bridge over the Sebastian Inlet, bridge number 880005, located on State Road A1A between Brevard County and Indian River County is designated as the “James H. Pruitt Memorial Bridge.”*

(2) *The Department of Transportation is directed to erect suitable markers designating the James H. Pruitt Memorial Bridge as described in subsection (1).*

Section 24. *Veterans Memorial Interchange designated; Department of Transportation to erect suitable markers.—*

(1) *The interchange of State Road 50, State Road 429, and the Florida Turnpike in Orange County is designated as “Veterans Memorial Interchange.”*

(2) *The Department of Transportation is directed to erect suitable markers designating Veterans Memorial Interchange as described in subsection (1).*

Section 25. *St. Petersburg/William C. Cramer Parkway designated; Department of Transportation to erect suitable markers.—*

(1) *Contingent on the passage of a resolution by the affected parties, that part of Interstate 275 in Pinellas County which extends from the Howard Frankland Bridge to the Skyway Bridge is designated as “St. Petersburg/William C. Cramer Parkway.”*

(2) *The Department of Transportation is directed to erect suitable markers designating St. Petersburg/William C. Cramer Parkway as described in subsection (1).*

Section 26. *President Ronald Reagan Parkway designated; Department of Transportation to erect suitable markers.—*

(1) *The access road connecting the Johnnie B. Byrd, Sr., Alzheimer’s Center and Research Institute to Bruce B. Downs Boulevard in Hillsborough County is designated as “President Ronald Reagan Parkway.”*

(2) *The Department of Transportation is directed to erect suitable markers designating President Ronald Reagan Parkway as described in subsection (1).*

Section 27. *Robert “Bullet Bob” Hayes Avenue designated; department to erect suitable markers.—*

(1) *That portion of Edgewood Avenue W. in Jacksonville from U.S. 1, East to where Edgewood Avenue W. becomes Tallulah is designated as “Robert ‘Bullet Bob’ Hayes Avenue.”*

(2) *The Department of Transportation is directed to erect suitable markers designating Robert “Bullet Bob” Hayes Avenue as described in subsection (1).*

Section 28. *Dan Jones Avenue designated; department to erect suitable markers.—*

(1) *That portion of Dunn Avenue in Jacksonville between I-295 West and I-95 North is designated as “Dan Jones Avenue.”*

(2) *The Department of Transportation is directed to erect suitable markers designating Dan Jones Avenue as described in subsection (1).*

Section 29. *Clyde Hart Highway designated; department to erect suitable markers.—*

(1) *That portion of State Road 44 which lies between Deland and State Road 415 in Volusia County is designated as “Clyde Hart Highway.”*

(2) *The Department of Transportation is directed to erect suitable markers designating Clyde Hart Highway as described in subsection (1).*

Section 30. *Charles E. Bennett Memorial Bridge designated; department to erect suitable markers.—*

(1) *Upon designation as part of the State Highway System, the Intra-coastal Waterway bridge portion of the Wonderwood Connector on Wonderwood Road between Girvin Road and State Route A1A in Duval County is designated as the “Charles E. Bennett Memorial Bridge.”*

(2) *The Department of Transportation is directed to erect suitable markers designating the Charles E. Bennett Memorial Bridge as described in subsection (1).*

Section 31. *Circus Bridge designated; department to erect suitable markers.—*

(1) *Bridge number 170167, the Intra-coastal Waterway bridge replacing bridge number 170036 on Business U.S. Highway 41 in Sarasota County, is designated as “Circus Bridge.”*

(2) *The Department of Transportation is directed to erect suitable markers designating Circus Bridge as described in subsection (1).*

Section 32. *Emerald Coast Parkway named.—*

(1) *U.S. Highway 98, in the City of Destin, from Gulf Shore Drive to 2378 Scenic Highway 98, is renamed “Emerald Coast Parkway.”*

(2) *The City of Destin is directed to erect suitable markers identifying Emerald Coast Parkway as described in subsection (1).*

Section 33. *Harbor Boulevard* named.—

(1) *U.S. Highway 98, in the City of Destin, from the East end of Marler Bridge to Gulf Shore Drive, is renamed "Harbor Boulevard."*

(2) *The City of Destin is directed to erect suitable markers identifying Harbor Boulevard as described in subsection (1).*

Section 34. *Alexandre Petion Boulevard* designation; Department of Transportation to erect suitable markers.—

(1) *State Road 909 on West Dixie Highway in Miami-Dade County, from the north boundary of State House District 108 to N.E. 2nd Avenue, is designated as "Alexandre Petion Boulevard."*

(2) *The Department of Transportation is directed to erect suitable markers designating Alexandre Petion Boulevard as described in subsection (1).*

Section 35. *Frederick Douglass Boulevard* designated; Department of Transportation to erect suitable markers.—

(1) *State Road 915 on N.E. 6th Avenue in Miami-Dade County, from the north boundary of State House District 108 to U.S. 1, is designated as "Frederick Douglass Boulevard."*

(2) *The Department of Transportation is directed to erect suitable markers designating Frederick Douglass Boulevard as described in subsection (1).*

Section 36. *George Gill Boulevard* designated; Department of Transportation to erect suitable markers.—

(1) *State Road 5 on Biscayne Boulevard (U.S. 1) in Miami-Dade County, from the north boundary of State House District 108 to the south boundary of the District, is designated as "George Gill Boulevard."*

(2) *The Department of Transportation is directed to erect suitable markers designating George Gill Boulevard as described in subsection (1).*

Section 37. *James Weldon Johnson Boulevard* designated; Department of Transportation to erect suitable markers.—

(1) *State Road 932 on N.W. 103rd Street in Miami-Dade County, from the west boundary of State House District 108 to N.E. 6th Avenue, is designated as "James Weldon Johnson Boulevard."*

(2) *The Department of Transportation is directed to erect suitable markers designating James Weldon Johnson Boulevard as described in subsection (1).*

Section 38. *Jean-Jacques Dessalines Boulevard* designated; Department of Transportation to erect suitable markers.—

(1) *State Road 922 on N.W. 125th Street in Miami-Dade County, from N.W. 7th Avenue to Griffing Boulevard, is designated as "Jean-Jacques Dessalines Boulevard."*

(2) *The Department of Transportation is directed to erect suitable markers designating Jean-Jacques Dessalines Boulevard as described in subsection (1).*

Section 39. *Judge Wilkie D. Ferguson, Jr. Boulevard* designated; Department of Transportation to erect suitable markers.—

(1) *That portion of Honey Hill Drive in Miami-Dade County, from N.W. 27th Avenue to N.W. 47th Avenue is designated as "Judge Wilkie D. Ferguson, Jr. Boulevard."*

(2) *The Department of Transportation is directed to erect suitable markers designating Judge Wilkie D. Ferguson, Jr. Boulevard as described in subsection (1).*

Section 40. *Sidney Alterman Way* designated; Department of Transportation to erect suitable markers.—

(1) *That portion of N.W. 42nd Avenue in Miami-Dade County, from N.W. 119th Street to N.W. 135th Street is designated as "Sidney Alterman Way."*

(2) *The Department of Transportation is directed to erect suitable markers designating Sidney Alterman Way as described in subsection (1).*

Section 41. *Kermit Sigmon Trail* designated; department to erect suitable markers.—

(1) *The portion of the State Road 24 Trail in Gainesville from Newell Drive to Southwest 16th Avenue is designated "Kermit Sigmon Trail."*

(2) *The Department of Transportation is directed to erect suitable markers designating the Kermit Sigmon Trail as described in subsection (1).*

Section 42. *Veterans Memorial Highway* designated; department to erect suitable markers.—

(1) *U.S. Highway 331 in Walton County, from U.S. Highway 90 to the southern boundary of the City of DeFuniak Springs, is designated as "Veterans Memorial Boulevard."*

(2) *The Department of Transportation is directed to erect suitable markers designating the Veterans Memorial Boulevard as described in subsection (1).*

Section 43. *Captain Charles "Bo" Harrison Memorial Highway* designated; department to erect suitable markers.—

(1) *That portion of U.S. Highway 301 in Pasco County, northbound and southbound, is designated as "Captain Charles 'Bo' Harrison Memorial Highway."*

(2) *The Department of Transportation is directed to erect suitable markers designating Captain Charles "Bo" Harrison Memorial Highway as described in subsection (1).*

Section 44. *Gale Lemerand Drive* designated; University of Florida to erect suitable markers.—

(1) *The North-South Drive on the University of Florida campus is redesignated as "Gale Lemerand Drive."*

(2) *The University of Florida is directed to erect suitable markers designating Gale Lemerand Drive as described in subsection (1).*

Section 45. *Jerry Underwood Memorial Highway* designated; markers.—

(1) *U.S. 1, between 296th Avenue SW and 304 Street in Miami-Dade County, is designated as the "Jerry Underwood Memorial Highway."*

(2) *The Department of Transportation is directed to erect suitable markers designating the Jerry Underwood Memorial Highway as described in subsection (1).*

Section 46. *Cesar Calas Way* designation; markers.—

(1) *8th Street between SW 57th Avenue and SW 62th Avenue in Miami-Dade County is hereby designated "Cesar Calas Memorial Highway."*

(2) *The Department of Transportation is directed to erect suitable markers designating Cesar Calas Way as described in subsection (1).*

Section 47. *Bill Seidle Boulevard* designated; markers.—

(1) *That portion of N.W. 36th Street between N.W. 27th Avenue and N.W. 39th Avenue in Miami-Dade County is designated "Bill Seidle Boulevard."*

(2) *The Department of Transportation is directed to erect suitable markers designating the Bill Seidle Boulevard.*

Section 48. This act shall take effect upon becoming a law.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to road and bridge designations; designating Browning-Pearce Memorial Highway in St. Johns and Putnam Counties; designating Jerome A. Williams Memorial Highway in Putnam

County; designating James C. Penney Memorial Boulevard in Clay County; designating C. Fred and Marvin Arrington Bridge in Leon County; designating Howard E. Futch Memorial Highway in Brevard and Osceola Counties; designating the St. Johns River Bridge on I-4 at the Seminole/Volusia County line as "St. Johns River Veterans Memorial Bridge"; designating the Ed Fraser Memorial Highway; designating the Trooper Charles W. Parks Memorial Highway; designating the Deputy Renee Danell Azure Memorial Highway; designating the portion of State Road 441 (Orange Blossom Trail) from State Road 192 to the Orange County line as "Robert Guevara Memorial Highway"; designating William H. Turner Memorial Boulevard in Miami-Dade County; designating a portion of U.S. Highway 98 in Gulf County as "Clifford C. Sims Parkway"; designating the bridge located on I-75 at the Lake Panasoffkee area exit in Sumter County as "Florida Veterans Memorial Bridge"; extending the Florida Arts Trail through Jefferson and Madison Counties; designating the Arthur L. Andrews Bridge in Wakulla County; designating the Skypass Bridge in the City of Riviera Beach as the "L. E. Buie Memorial Bridge"; designating Forest Ranger Edward O. Peters Memorial Highway in Levy County; designating Dr. T. Stewart Greer Avenue in Miami-Dade County; designating Andrew J. Aviles Trail in Hillsborough County; designating Private Robert M. McTureous, Jr., U.S.M.C., Medal of Honor Memorial Highway in Lake County; designating a portion of I-95 at approximately mile marker 284 as the "Deputy Charles 'Chuck' Sease Highway"; designating Larry E. Smedley Medal of Honor Highway in Orange County; designating the James H. Pruitt Memorial Bridge in Brevard and Indian River Counties; designating Veterans Memorial Interchange in Orange County; designating St. Petersburg/William C. Cramer Parkway in Pinellas County; designating President Ronald Reagan Parkway in Hillsborough County; designating a portion of Edgewood Avenue in Jacksonville as the "Robert 'Bullet Bob' Hayes Avenue"; designating a portion of Dunn Avenue in Jacksonville as "Dan Jones Avenue"; designating the portion of State Road 44 which lies between Deland and State Road 415 in Volusia County as "Clyde Hart Highway"; designating Charles E. Bennett Memorial Bridge in Duval County; designating Circus Bridge in Sarasota County; naming Emerald Coast Parkway in the City of Destin; naming Harbor Boulevard in the City of Destin; designating Alexandre Petion Boulevard in Miami-Dade County; designating Frederick Douglass Boulevard in Miami-Dade County; designating George Gill Boulevard in Miami-Dade County; designating James Weldon Johnson Boulevard in Miami-Dade County; designating Jean-Jacques Dessalines Boulevard in Miami-Dade County; designating Judge Wilkie D. Ferguson, Jr. Boulevard in Miami-Dade County; designating Sidney Alterman Way in Miami-Dade County; designating the State Road 24 Trail from Newell Drive to Southwest 16th Avenue in Gainesville as "Kermit Sigmon Trail"; designating Veterans Memorial Highway in Walton County; designating Captain Charles "Bo" Harrison Memorial Highway in Pasco County; directing the department to erect suitable markers; designating Gale Lemerand Drive in Alachua County; designates a portion of U.S. 1 in Miami-Dade County as the Jerry Underwood Memorial Highway; designates a portion of 8th Street in Miami-Dade County the Cesar Calas Memorial Highway; designating the "Bill Seidle" Boulevard in Miami-Dade County; providing an effective date.

Pursuant to Rule 4.19, **HB 9** as amended was placed on the calendar of Bills on Third Reading.

On motion by Senator Clary—

CS for CS for SB 2020—A bill to be entitled An act relating to specialty license plates; amending ss. 320.08056 and 320.08058, F.S.; creating the Save Our Seas license plate; creating the Aquaculture license plate; creating a Family First license plate; creating a Sportsmen's National Land Trust license plate; creating the Live the Dream license plate; creating a Florida Food Banks license plate; creating a Discover Florida's Oceans license plate; creating the Family Values license plate; creating the Parents Make A Difference license plate; creating the Support Soccer license plate; creating a Kids Deserve Justice license plate; providing for the distribution of annual use fees received from the sale of such plates; providing an effective date.

—was read the second time by title.

Senator Bennett moved the following amendment which was adopted:

Amendment 1 (263966)—On page 5, line 21 through page 6, line 2, delete those lines and insert:

(b) *The annual revenues from the sales of the license plate shall be distributed to the Sportsmen's National Land Trust. Such annual revenues must be used by the trust in the following manner:*

1. *Fifty percent may be retained until fifty percent of all startup costs for developing and establishing the plate have been recovered.*

2. *Twenty-five percent must be used to fund programs and projects within the state that preserve open space and wildlife habitat, promote conservation, improve wildlife habitat, and establish open space for the perpetual use of the public.*

3. *Twenty-five percent may be used for promotion, marketing, and administrative costs directly associated with operation of the trust.*

(c) *When the provisions of subparagraph 1. are met those annual revenues shall be used for the purposes of subparagraph 2.*

MOTION

On motion by Senator Clary, the rules were waived to allow the following amendment to be considered:

Senator Clary moved the following amendment which was adopted:

Amendment 2 (502456)(with title amendment)—On page 1, lines 22-29, delete those lines and insert:

Section 1. Paragraph (h) of subsection (4) of section 320.0056, Florida Statutes, is amended and paragraphs (ss), (tt), (uu), (vv), (ww), (xx), (yy), (zz), (aaa), (bbb), and (ccc) are added to that subsection, to read:

320.08056 Specialty license plates.—

(4) The following license plate annual use fees shall be collected for the appropriate specialty license plates:

(h) Florida educational license plate, \$20 ~~\$15~~.

(ss) *Save Our Seas license plate, \$25, except that for*

And the title is amended as follows:

On page 1, line 3, after the semicolon (;) insert: increasing the annual use fee for the Florida educational license plate;

MOTION

On motion by Senator Sebesta, the rules were waived to allow the following amendments to be considered:

Senators Sebesta and Klein offered the following amendments which were moved by Senator Sebesta and adopted:

Amendment 3 (601058)(with title amendment)—On page 1, line 23 through page 2, line 19, delete those lines and insert:

Section 1. Paragraphs (ss), (tt), (uu), (vv), (ww), (xx), (yy), (zz), (aaa), (bbb), (ccc), and (ddd) are added to subsection (4) of section

320.08056 Specialty license plates.—

(4) The following license plate annual use fees shall be collected for the appropriate specialty license plates:

(ss) *Save Our Seas license plate, \$25, except that for an owner purchasing the specialty license plate for more than 10 vehicles registered to that owner, the annual use fee shall be \$10 per plate.*

(tt) *Aquaculture license plate, \$25, except that for an owner purchasing the specialty license plate for more than 10 vehicles registered to that owner, the annual use fee shall be \$10 per plate.*

(uu) *Family First license plate, \$25.*

(vv) *Sportsmen's National Land Trust license plates, \$25.*

(ww) *Live the Dream license plate, \$25.*

(xx) *Florida Food Banks license plate, \$25.*

(yy) *Discover Florida's Oceans license plate, \$25.*

(zz) *Family Values license plate, \$25.*

(aaa) *Parents Make A Difference license plate, \$25.*

(bbb) *Support Soccer license plate, \$25.*

(ccc) *Kids Deserve Justice license plate, \$25.*

(ddd) *Animal Friend license plate, \$25.*

Section 2. Subsections (45), (46), (47), (48), (49), (50), (51), (52), (53), (54), (55), and (56) are added to section 320.08058, Florida Statutes, to read:

And the title is amended as follows:

On page 1, line 15, after the semicolon (;) insert: creating the Animal Friend license plate;

Amendment 4 (974436)—On page 12, between lines 17 and 18, insert:

(56) *ANIMAL FRIEND LICENSE PLATES.*—

(a) *Notwithstanding the provisions of s. 320.08053, the department shall develop an Animal Friend license plate as provided in this section. Animal Friend license plates must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Animal Friend" must appear at the bottom of the plate.*

(b) *The department shall retain all annual use fee revenues from the sale of such plates until all startup costs for developing and issuing the plates are recovered, not to exceed \$60,000.*

(c) *After the department has recovered all startup costs for developing and issuing the plates, the annual use fees shall be distributed to the Humane Society of the United States for animal welfare programs and spay and neuter programs in the state.*

(d) *No more than 10 percent of the fees collected may be used for administrative costs directly associated with marketing and promotion of the Animal Friend license plate and distribution of funds as described in subsection (c) of this section.*

(e) *Funds received from the purchase of the Animal Friend license plate shall not be used for litigation.*

Pursuant to Rule 4.19, **CS for CS for SB 2020** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

Consideration of **CS for CS for SB 528** was deferred.

On motion by Senator Wasserman Schultz—

SB 1962—A bill to be entitled An act relating to sex trafficking; creating s. 796.035, F.S.; providing that it is a felony of the first degree for a parent, legal guardian, or other person having custody or control of a minor to offer to, or to actually, sell or otherwise transfer custody or control of such minor, with knowledge that such sale or transfer will result in force, fraud, or coercion being used to cause the minor to engage in prostitution or otherwise participate in the trade of sex trafficking; providing criminal penalties; creating s. 796.045, F.S.; providing for the offense of sex trafficking; providing that it is a felony of the second degree to knowingly recruit, entice, harbor, transport, provide, or obtain a person, knowing that force, fraud, or coercion will be used to cause that person to engage in prostitution; providing that it is a felony of the first degree if sex trafficking involves a person under the age of 14 or results in death; providing criminal penalties; amending s. 895.02, F.S.; expanding the definition of racketeering activity to include the offenses created herein; reenacting ss. 16.56(1)(a), 27.34(1), 655.50(3)(g), 896.101(2)(g), and 905.34(3), F.S., which relate to the authority of the Office of State-wide Prosecution to investigate and prosecute certain offenses, the contribution of funds by counties and municipalities towards salaries of

assistant state attorneys, the Florida Control of Money Laundering in Financial Institutions Act, the Florida Money Laundering Act, and the subject matter jurisdiction of the statewide grand jury, respectively, to incorporate the amendment to s. 895.02, F.S., in references thereto; providing applicability; providing an effective date.

—was read the second time by title.

MOTION

On motion by Senator Wasserman Schultz, the rules were waived to allow the following amendments to be considered:

Senator Wasserman Schultz moved the following amendments which were adopted:

Amendment 1 (372814)(with title amendment)—On page 2, between lines 12 and 13, insert:

Section 1. Section 787.05, Florida Statutes, is created to read:

787.05 Unlawfully obtaining labor or services.—Any person who knowingly obtains the labor or services of a person by:

(1) *Causing or threatening to cause bodily injury to that person or another person;*

(2) *Restraining or threatening to restrain that person or another person without lawful authority and against her or his will; or*

(3) *Withholding that person's governmental records, identifying information, or other personal property,*

commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 2. Section 787.06, Florida Statutes, is created to read:

787.06 Human trafficking.—

(1) *As used in this section, the term:*

(a) *"Forced labor or services" means labor or services obtained from a person by:*

1. *Using or threatening to use physical force against that person or another person; or*

2. *Restraining or confining or threatening to restrain or confine that person or another person without lawful authority and against her or his will.*

(b) *"Human trafficking" means transporting, soliciting, recruiting, harboring, providing, or obtaining another person for transport.*

(2) *Any person who knowingly engages in human trafficking with the intent that the trafficked person engage in forced labor or services commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.*

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, line 2, after the semicolon (;) insert: creating s. 787.05, F.S.; specifying elements of the offense of unlawfully obtaining labor or services; providing criminal penalties; creating s. 787.06, F.S.; providing definitions; specifying elements of the offense of human trafficking; providing criminal penalties; providing applicability;

Amendment 2 (425110)(with title amendment)—On page 2, between lines 12 and 13, insert:

Section 1. Section 787.05, Florida Statutes, is created to read:

787.05 Unlawfully obtaining labor or services.—Any person who knowingly obtains the labor or services of a person by:

(1) *Causing or threatening to cause bodily injury to that person or another person;*

(2) Restraining or threatening to restrain that person or another person without lawful authority and against her or his will; or

(3) Withholding that person's governmental records, identifying information, or other personal property,

commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 2. Section 787.06, Florida Statutes, is created to read:

787.06 Human trafficking.—

(1) As used in this section, the term:

(a) "Forced labor or services" means labor or services obtained from a person by:

1. Using or threatening to use physical force against that person or another person; or

2. Restraining or confining or threatening to restrain or confine that person or another person without lawful authority and against her or his will.

(b) "Human trafficking" means transporting, soliciting, recruiting, harboring, providing, or obtaining another person for transport.

(2) Any person who knowingly engages in human trafficking with the intent that the trafficked person engage in forced labor or services commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 1, delete line 2 and insert: An act relating to human trafficking; creating s. 787.05, F.S.; specifying elements of the offense of unlawfully obtaining labor or services; providing criminal penalties; creating s. 787.06, F.S.; providing definitions; specifying elements of the offense of human trafficking; providing criminal penalties; providing applicability; creating s.

RECONSIDERATION OF AMENDMENT

On motion by Senator Wasserman Schultz, the Senate reconsidered the vote by which Amendment 1 (372814) was adopted. Amendment 1 was withdrawn.

Pursuant to Rule 4.19, SB 1962 as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Bennett, the Senate resumed consideration of—

CS for SB 540—A bill to be entitled An act relating to manatee protection; amending s. 370.12, F.S.; creating an exception from penalties for activities that are otherwise prohibited if the activity is reasonably necessary in order to prevent loss of human life or a vessel in distress or render necessary assistance to persons or a vessel in distress; directing that existing manatee protection rules be presumed adequate and additional rules unnecessary in a region where measurable biological goals are being achieved; providing that the presumption does not prevent the commission from amending existing rules or adopting new rules to address risks or circumstances affecting manatees within that region; defining the term "region" for purposes of the act; creating s. 370.1202, F.S.; requiring the Fish and Wildlife Conservation Commission to implement an enhanced manatee protection study; providing goals for manatee protection research relating to decisions based on sound science-based policies; directing the commission to contract with Mote Marine Laboratory to conduct a manatee habitat and submerged aquatic vegetation assessment; providing requirements for the assessment; directing that reports be made to the Governor, Legislature, and commission which include recommendations based upon study results; requiring an annual audit; directing the Fish and Wildlife Conservation Commission to conduct a signage and boat speed assessment of the effectiveness of signs warning boaters of manatee slow-speed zones in the waters of this state; providing requirements for the assessment; directing the commission to prepare and submit a report to the Govern-

nor, the President of the Senate, and the Speaker of the House of Representatives; directing the commission to make specific policy recommendations regarding signs in manatee slow-speed zones; authorizing the Fish and Wildlife Conservation Commission to develop and implement a genetic tagging program for manatees; amending s. 372.072, F.S.; requiring the Fish and Wildlife Conservation Commission to develop rules not later than July 1, 2005, which define how measurable biological goals will be used when evaluating the need for additional manatee protection rules; providing appropriations; providing an effective date.

—which was previously considered and amended this day. Pending Amendment 2 (294146) by Senator Wasserman Schultz failed.

Senator Bennett moved the following amendment which was adopted:

Amendment 3 (421928)(with title amendment)—On page 7, line 25 through page 8, line 4, delete those lines and insert:

Section 4. Subject to an appropriation by the Legislature, the Fish and Wildlife Conservation Commission shall contract with Mote Marine Laboratory to conduct the manatee habitat and submerged aquatic vegetation assessment as provided in this act.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 2, lines 20 and 21, delete those lines and insert: additional manatee protection rules; providing for a contract; providing an effective date.

RECONSIDERATION OF AMENDMENT

On motion by Senator Crist, the Senate reconsidered the vote by which Amendment 1 (114508) was adopted. Amendment 1 failed. The vote was:

Yeas—19

Table with 3 columns: Name, Name, Name. Rows include Alexander, Argenziano, Aronberg, Bullard, Campbell, Constantine, Cowin, Crist, Dawson, Dockery, Garcia, Hill, Klein, Margolis, Miller, Siplin, Smith, Villalobos, Wasserman Schultz.

Nays—19

Table with 3 columns: Name, Name, Name. Rows include Mr. President, Atwater, Bennett, Carlton, Clary, Diaz de la Portilla, Fasano, Geller, Haridopolos, Jones, Lawson, Lee, Lynn, Peaden, Posey, Pruitt, Sebasta, Webster, Wise.

Pursuant to Rule 4.19, CS for SB 540 as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

Consideration of SM 2818 was deferred.

THE PRESIDENT PRESIDING

On motion by Senator Geller, the Senate resumed consideration of—

SJR 566—A joint resolution proposing an amendment to Section 2 of Article I of the State Constitution, relating to basic rights.

—which was previously considered this day and by motion returned to second reading. Pending Amendment 1 (610108) by Senator Cowin was adopted.

Pursuant to Rule 4.19, SJR 566 as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Lee, by two-thirds vote **CS for CS for SB 1358** was withdrawn from the Committees on Appropriations Subcommittee on Transportation and Economic Development; and Appropriations; and **CS for CS for SB 520 and CS for SB 494** was withdrawn from the Committees on Appropriations Subcommittee on General Government; Appropriations Subcommittee on Transportation and Economic Development; and Appropriations.

MOTIONS RELATING TO COMMITTEE MEETINGS

On motion by Senator Lee, the rules were waived and the meeting of the Special Order Subcommittee of the Committee on Rules and Calendar scheduled for 15 minutes after recess this day was cancelled.

MOTIONS

On motion by Senator Lee, by two-thirds vote the following bills were placed on the Special Order Calendar for Tuesday, April 27: **CS for CS for SB 162, SB 300, CS for SB's 332, 1912 and 2678, CS for SB 338, CS for CS for SB 354, CS for CS for SB 520 and CS for SB 494, CS for SB 612, CS for SB 714, CS for SB 1226, CS for CS for SB 1280, CS for SB 1374, CS for CS for SB 1380, CS for CS for SB 1456, CS for SB 1578, CS for SB 1588, CS for CS for CS for SB 1698, CS for SB 1782, CS for SB 1820, CS for SB 1824, CS for SB 1842, CS for SB's 1940 and 2636, CS for CS for SB 1982, CS for SB 2008, CS for CS for SB 2042, CS for SB 2246, CS for SB 2302, CS for SB 2322, CS for SB 2448, CS for SM 2522, CS for SB 2664, CS for CS for CS for SB 2676, CS for CS for SB 2682, CS for CS for SB 2704, CS for CS for SB 2722, SB 2968, CS for SB 3000, CS for CS for SB 3004 and CS for CS for SB 3006.**

On motion by Senator Lee, a deadline of one hour after recess was set for filing amendments to the Special Order Calendar to be considered Tuesday, April 27.

On motion by Senator Lee, a deadline of one hour after the availability of engrossed bills was set for filing amendments to Bills on Third Reading to be considered Tuesday April 27.

On motion by Senator Lee, by two-thirds vote all bills remaining on the Special Order Calendar this day were placed on the Special Order Calendar for Tuesday, April 27.

REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following bills to be placed on the Special Order Calendar for Monday, April 26, 2004: **CS for SB 2284, CS for SB 2572, CS for CS for SB 1178, SB 2132, CS for CS for SB 2480, CS for SB 2654, CS for CS for SB 2804, CS for SB 2856, SB 2574, SB 3010, SB 3012, CS for SB 2918, CS for SB 538, SB 2532, CS for CS for SB 546, CS for CS for CS for SB 700, CS for SB 1900, CS for SB 702, CS for SB 2412, SB 2420, SB 2924, CS for SB 444, SB 2426, SB 1440, CS for CS for SB 1604, CS for CS for SB 2262, SB 2754, CS for CS for SB 2994, CS for SB 2548, CS for SB's 2346 and 516, CS for CS for SB 1700, CS for CS for SB 2616, SB 224, CS for CS for SB 2026, CS for SB 2158, CS for SB 2054, CS for CS for CS for SB 2910, CS for SB 2060, CS for SB 1074, CS for CS for CS for SB 1174, SB 1592, CS for SB 1600, CS for SB 3046, CS for SB 540, CS for SB 560, SB 2082, CS for SB 2674, CS for CS for SB 2842, CS for CS for CS for SB 512, CS for CS for SB 2984, SB 2922, CS for SB 244 and 1566, CS for CS for CS for SB 2954, CS for SB 1122, CS for CS for SB 2020, CS for CS for SB 528, SB 1962, SM 2818**

Respectfully submitted,
Tom Lee, Chair

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

FIRST READING

The Honorable James E. "Jim" King, Jr., President

I am directed to inform the Senate that the House of Representatives has passed as amended HB 113, HB 373, HB 1629, HB 1899 and re-

quests the concurrence of the Senate.

John B. Phelps, Clerk

By Representative Homan and others—

HB 113—A bill to be entitled An act relating to powers and duties of district school boards; amending s. 1001.43, F.S.; authorizing district school board programs and policies to require drug testing of middle and high school students in certain circumstances; prohibiting district school boards from using instructional funds to pay for testing; prohibiting district school boards from excluding students from extracurricular activities based on inability to pay for testing; authorizing the State Board of Education to adopt rules; providing an effective date.

—was referred to the Committees on Education; Judiciary; Appropriations Subcommittee on Education; and Appropriations.

By Representative Spratt and others—

HB 373—A bill to be entitled An act relating to water policy; amending s. 373.069, F.S.; revising boundaries of the Southwest Florida Water Management District and the South Florida Water Management District; amending s. 373.0691, F.S.; providing for the transfer of land and other incidentals from the Southwest Florida Water Management District to the South Florida Water Management District; requiring the Southwest Florida Water Management District to take final agency action with respect to certain permit applications received prior to a date certain; amending s. 373.073, F.S.; removing Highlands County from the Southwest Florida Water Management District's governing board; providing an effective date.

—was referred to the Committees on Natural Resources; and Governmental Oversight and Productivity.

By Representative Farkas and others—

HB 1629—A bill to be entitled An act relating to affordable health care; providing a popular name; providing purpose; amending s. 381.026, F.S.; requiring certain licensed facilities to provide public Internet access to certain financial information; providing a definition; amending s. 381.734, F.S.; including participation by health care providers, small businesses, and health insurers in the Healthy Communities, Healthy People Program; requiring the Department of Health to provide public Internet access to certain public health programs; requiring the department to monitor and assess the effectiveness of such programs; requiring a report; requiring the Office of Program Policy and Government Accountability to evaluate the effectiveness of such programs; requiring a report; amending s. 395.1041, F.S.; authorizing hospitals to develop certain emergency room diversion programs; amending s. 395.1055, F.S.; requiring licensed facilities to make certain patient charge and performance outcome data available on Internet websites; amending s. 395.1065, F.S.; authorizing the Agency for Health Care Administration to charge a fine for failure to provide such information; amending s. 395.301, F.S.; requiring certain licensed facilities to provide prospective patients certain estimates of charges for services; requiring such facilities to provide patients with certain bill verification information; providing for a fine for failure to provide such information; providing charge limitations; requiring such facilities to establish a patient question review and response methodology; providing requirements; requiring certain licensed facilities to provide public Internet access to certain financial information; requiring posting of a notice of the availability of such information; amending s. 408.061, F.S.; requiring the Agency for Health Care Administration to require health care facilities, health care providers, and health insurers to submit certain information; providing requirements; requiring the agency to adopt certain risk and severity adjustment methodologies; requiring the agency to adopt certain rules; requiring certain information to be certified; amending s. 408.062, F.S.; requiring the agency to conduct certain health care costs and access research, analyses, and studies; expanding the scope of such studies to include collection of pharmacy retail price data, use of emergency departments, physician information, and Internet patient charge information availability; requiring a report; requiring the agency to conduct

additional data-based studies and make recommendations to the Legislature; requiring the agency to develop and implement a strategy to adopt and use electronic health records; authorizing the agency to develop rules to protect electronic records confidentiality; requiring a report to the Governor and Legislature; amending s. 408.05, F.S.; requiring the agency to develop a plan to make performance outcome and financial data available to consumers for health care services comparison purposes; requiring submittal of the plan to the Governor and Legislature; requiring the agency to update the plan; requiring the agency to make the plan available electronically; providing plan requirements; amending s. 409.9066, F.S.; requiring the agency to provide certain information relating to the Medicare prescription discount program; amending s. 408.7056, F.S.; renaming the Statewide Provider and Subscriber Assistance Program as the Subscriber Assistance Program; revising provisions to conform; expanding certain records availability provisions; revising membership provisions relating to a subscriber grievance hearing panel; revising a list of grievances the panel may consider; providing hearing procedures; amending s. 641.3154, F.S., to conform to the renaming of the Subscriber Assistance Program; amending s. 641.511, F.S., to conform to the renaming of the Subscriber Assistance Program; adopting and incorporating by reference the Employee Retirement Income Security Act of 1974, as implemented by federal regulations; amending s. 641.58, F.S., to conform to the renaming of the Subscriber Assistance Program; amending s. 408.909, F.S.; expanding a definition of "health flex plan entity" to include public-private partnerships; making a pilot health flex plan program apply permanently statewide; providing additional program requirements; creating s. 381.0271, F.S.; providing definitions; creating the Florida Patient Safety Corporation; authorizing the corporation to create additional not-for-profit corporate subsidiaries for certain purposes; specifying application of public records and public meetings requirements; exempting the corporation and subsidiaries from public procurement provisions; providing purposes; providing for a board of directors; providing for membership; authorizing the corporation to establish certain advisory committees; providing for organization of the corporation; providing for meetings; providing powers and duties of the corporation; requiring the corporation to collect, analyze, and evaluate patient safety data and related information; requiring the corporation to establish a reporting system to identify and report near misses relating to patient safety; requiring the corporation to work with state agencies to develop electronic health records; providing for an active library of evidence-based medicine and patient safety practices; requiring the corporation to develop and recommend core competencies in patient safety and public education programs; requiring an annual report; providing report requirements; authorizing the corporation to seek funding and apply for grants; requiring the Office of Program Policy Analysis and Government Accountability, the Department of Health, and the Agency for Health Care Administration to develop performance standards to evaluate the corporation; amending s. 409.91255, F.S.; expanding assistance to certain health centers to include community emergency room diversion programs and urgent care services; amending s. 627.410, F.S.; requiring insurers to file certain rates with the Office of Insurance Regulation; creating s. 627.64872, F.S.; providing legislative intent; creating the Florida Health Insurance Plan for certain purposes; providing definitions; providing exclusions; providing requirements for operation of the plan; providing for a board of directors; providing for appointment of members; providing for terms; specifying service without compensation; providing for travel and per diem expenses; requiring a plan of operation; providing requirements; providing for powers of the plan; requiring reports to the Governor and Legislature; providing for an actuarial study; providing certain immunity from liability for plan obligations; authorizing the board to provide for indemnification of certain costs; requiring an annually audited financial statement; providing for eligibility for coverage under the plan; providing criteria, requirements, and limitations; specifying certain activity as an unfair trade practice; providing for a plan administrator; providing criteria; providing requirements; providing term limits for the plan administrator; providing duties; providing for paying the administrator; providing for premium rates for plan coverage; providing rate limitations; providing for sources of additional revenue; specifying benefits under the plan; providing criteria, requirements, and limitations; providing for nonduplication of benefits; providing for annual and maximum lifetime benefits; providing for tax exempt status; providing for abolition of the Florida Comprehensive Health Association upon implementation of the plan; providing for continued operation of the Florida Comprehensive Health Association until adoption of a plan of operation for the Florida Health Insurance Plan; providing for enrollment in the plan of persons enrolled in the association; requiring insurers to pay certain assessments to the board for certain

purposes; providing criteria, requirements, and limitations for such assessments; providing for repeal of ss. 627.6488, 627.6489, 627.649, 627.6492, 627.6494, 627.6496, and 627.6498, F.S., relating to the Florida Comprehensive Health Association, upon implementation of the plan; amending s. 627.662, F.S.; providing for application of certain claim payment methodologies to certain types of insurance; providing for certain actions relating to inappropriate utilization of emergency care; amending s. 627.6699, F.S.; revising provisions requiring small employer carriers to offer certain health benefit plans; preserving a right to open enrollment for certain small groups; requiring small employer carriers to file and provide coverage under certain high deductible plans; including high deductible plans and health reimbursement arrangements under certain required plan provisions; creating the Small Employers Access Program; providing legislative intent; providing definitions; providing participation eligibility requirements and criteria; requiring the Office of Insurance Regulation to administer the program by selecting an insurer through competitive bidding; providing requirements; specifying insurer qualifications; providing duties of the insurer; providing a contract term; providing insurer reporting requirements; providing application requirements; providing for benefits under the program; requiring the office to annually report to the Governor and Legislature; creating ss. 627.6405 and 641.31097, F.S.; providing for decreasing inappropriate use of emergency care; providing legislative findings and intent; requiring health maintenance organizations and providers to provide certain information electronically and develop community emergency department diversion programs; authorizing health maintenance organizations to require higher copayments for certain uses of emergency departments; amending s. 627.9175, F.S.; requiring certain health insurers to annually report certain coverage information to the office; providing requirements; deleting certain reporting requirements; retitling ch. 636, F.S.; designating ss. 636.002-636.067, F.S., as pt. I of ch. 636, F.S.; providing a part title; amending s. 636.003, F.S.; revising the definition of "prepaid limited health service organization" to exclude discount medical plan organizations; creating pt. II of ch. 636, F.S., consisting of ss. 636.202-636.244, F.S.; providing a part title; providing definitions; providing for regulation and operation of discount medical plan organizations; requiring corporate licensure before doing business as a discount medical plan; specifying application requirements; requiring license fees; providing for expiration and renewal of licenses; requiring such organizations to establish an Internet website; requiring publication of certain information on the website; specifying collection and deposit of the licensing fee; authorizing the office to examine or investigate the business affairs of such organizations; requiring examinations and investigations; authorizing the office to order production of documents and take statements; requiring organizations to pay certain expenses; specifying grounds for denial or revocation under certain circumstances; authorizing discount medical plan organizations to charge certain fees under certain circumstances; providing reimbursement requirements; prohibiting certain activities; requiring certain disclosures to prospective members; requiring provider agreements to provide services under a medical discount plan; providing agreement requirements; requiring forms and rates to be filed with the office; requiring annual reports to be filed with the office; providing requirements; providing for fines and administrative sanctions for failing to file annual reports; establishing minimum capital requirements; providing for suspension or revocation of licenses under certain circumstances; providing for suspension of enrollment of new members under certain circumstances; providing terms of suspensions; requiring notice of any change of an organization's name; requiring discount medical plan organizations to maintain provider names listings; specifying marketing requirements of discount medical plans; providing limitations; specifying fee disclosure requirements for bundling discount medical plans with other insurance products; authorizing the commission to adopt rules; applying insurer service of process requirements on discount medical plan organizations; requiring a security deposit; prohibiting levy on certain deposit assets or securities under certain circumstances; providing criminal penalties; authorizing the office to seek certain injunctive relief under certain circumstances; providing limitations; providing for civil actions for damages for certain violations; providing for awards of court costs and attorney fees; specifying application of unauthorized insurer provisions of law to unlicensed discount medical plan organizations; creating ss. 627.65626 and 627.6402, F.S.; providing for insurance rebates for healthy lifestyles; providing for rebate of certain premiums for participation in health wellness, maintenance, or improvement programs under certain circumstances; providing requirements; amending s. 641.31, F.S.; authorizing health maintenance organizations offering certain point-of-service riders to offer such riders to certain employers for certain employees; providing requirements and limitations; providing for

application of certain claim payment methodologies to certain types of insurance; providing for rebate of certain premiums for participation in health wellness, maintenance, or improvement programs under certain circumstances; providing requirements; creating s. 626.593, F.S.; providing fee and commission limitations for health insurance agents; requiring a written contract for compensation; providing contract requirements; requiring a rebate of commission under certain circumstances; amending ss. 626.191 and 626.201, F.S.; clarifying certain application requirements; preserving certain rights to enrollment in certain health benefit coverage programs for certain groups under certain circumstances; creating s. 465.0244, F.S.; requiring each pharmacy to make available on its Internet website a link to certain performance outcome and financial data of the Agency for Health Care Administration and a notice of the availability of such information; amending s. 627.6499, F.S.; requiring each health insurer to make available on its Internet website a link to certain performance outcome and financial data of the Agency for Health Care Administration and a notice in policies of the availability of such information; amending s. 641.54, F.S.; requiring health maintenance organizations to make certain insurance financial information available to subscribers; requiring health maintenance organizations to make available on its Internet website a link to certain performance outcome and financial data of the Agency for Health Care Administration and a notice in policies of the availability of such information; repealing s. 408.02, F.S., relating to the development, endorsement, implementation, and evaluation of patient management practice parameters by the Agency for Health Care Administration; providing appropriations; providing effective dates.

—was referred to the Committees on Health, Aging, and Long-Term Care; Banking and Insurance; Appropriations Subcommittee on Health and Human Services; and Appropriations.

By the Committee on Judiciary; and Representative Kottkamp and others—

HB 1899—A bill to be entitled An act relating to construction defects; amending s. 558.001, F.S.; revising legislative findings and declarations; amending s. 558.002, F.S.; revising definitions; amending s. 558.003, F.S.; providing requirements for filing actions alleging construction defects; requiring abatement, upon timely motion, of certain actions filed that do not comply with certain requirements; amending s. 558.004, F.S.; revising requirements, procedures, criteria, and limitations in provisions relating to notice and opportunity to repair construction defects in certain structures; providing requirements and procedures for making, accepting, or rejecting settlement offers; providing for consequences of certain actions relating to settlement offers; specifying legal obligation to make certain repairs or monetary payments under certain circumstances; providing a mutual duty to exchange certain discoverable evidence; providing requirements and limitations; amending s. 558.005, F.S.; revising certain contract content provisions; providing a notice form; providing application; providing severability; providing an effective date.

—was referred to the Committees on Regulated Industries; and Judiciary.

RETURNING MESSAGES—FINAL ACTION

The Honorable James E. “Jim” King, Jr., President

I am directed to inform the Senate that the House of Representatives has passed SB 2056; and passed SB 716, SB 718, SB 720, SB 722, SB 724, SB 726, SB 728, SB 730, SB 732, SB 736, SB 738, SB 740, SB 742, SB 744, SB 746, SB 748, SB 750, SB 752, SB 754, SB 756, SB 758, SB 760, SB 764, SB 766, SB 768, SB 770, SB 772, SB 774, SB 776, SB 778, SB 780, SB 782, SB 784, SB 786, SB 788, SB 790, CS for SB 792, CS for SB 794, SB 796, SB 804, SB 806, SB 808, SB 816, CS for SB 818, SB 822, SB 824, SB 826, SB 828, SB 830, SB 832, SB 834, SB 838, SB 840, SB 842, CS for SB 844, CS for SB 846, CS for SB 848, CS for SB 852, CS for SB 854, CS for SB 856, SB 862, SB 864, SB 866, SB 868, SB 870, SB 874, SB 876, SB 878, SB 880, SB 884, SB 886, SB 888, SB 890, SB 892, SB 894, SB 896, SB 898, SB 900, SB 902, SB 904, SB 906, SB 908, SB 910, SB 912, SB 914, SB 916, SB 918, SB 920, SB 922, SB 924, SB 926, SB 928, SB 930, SB 932, SB 934, SB 936, SB 938, SB 940, SB 942, SB 944, SB 946, SB 948, SB 950, SB 952, SB 954, SB 956, SB 958, SB 960, SB 962, SB 966, SB 968, SB 974, SB 976, SB 978, SB 980, SB 984, SB 986, SB 990, SB 992, SB 994, SB 996, SB 998, SB 1006, SB 1010, SB 1012, SB 1014, SB 1016, SB 1020, SB 1022, SB 1024, SB 1026, SB 1028, SB 1030, SB 1032, SB 1034, SB 1036, SB 1038, SB 1044, SB 1046, CS for SB 1050, SB 1054, SB 1056, SB 1236, SB 1240, SB 1242, SB 1244, SB 1246, SB 1434, SB 1690, SB 1692, and SB 1694 by the required Constitutional three-fifths vote of the membership of the House.

John B. Phelps, Clerk

The bills contained in the foregoing messages were ordered enrolled.

CORRECTION AND APPROVAL OF JOURNAL

The Journal of April 24 was corrected and approved.

CO-SPONSORS

Senators Aronberg—CS for CS for SB 448; Haridopolos—CS for CS for SB 1712 and Lawson—SB 1828

RECESS

On motion by Senator Lee, the Senate recessed at 8:17 p.m. for the purpose of holding committee meetings and conducting other Senate business to reconvene at 10:00 a.m., Tuesday, April 27 or upon call of the President.

SENATE PAGES

April 26-30, 2004

Annabelle Carbonell, Orlando; Marisa Nicole Corona, Spring Hill; Josey “Samuel” Crews, Macclenny; Heather Drew, Tallahassee; Zachary “Zach” Engel, Longwood; Vincent Evans, Middleburg; Jessica L. Jones, Windermere; Brian Lee, Lithia; David McGuire, Tallahassee; Roy “Ric” Miller, Tallahassee; Sam Neimeiser, Tallahassee; Michaelia Robinson, Tallahassee; Juan Santiago, Orlando; Taylor Snively, Winter Haven; Josh Szeliga, Tallahassee; Katherine E. Ward, Tallahassee; Kaitlin V. Webster, Daytona Beach; John E. Webster, Orlando; Elizabeth Anne Webster, Orlando; Margaret K. Yates, DeFuniak Springs